

Birbal Vs. Raj Kumar

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Court : Punjab and Haryana

Decided On : Sep-24-2003

Reported in : (2004)136PLR777

Judge : H.S. Bedi, J.

Acts : Haryana Urban (Control of Rent and Eviction) Act, 1973 - Sections 13(2)

Appeal No. : Civil Revision No. 311 of 1988

Appellant : Birbal

Respondent : Raj Kumar

Advocate for Def. : Ashok Aggarwal and; Sanjay Mittal, Advs.

Advocate for Pet/Ap. : Jaswant Jain, Adv.

Disposition : Petition dismissed

Judgement :

H.S. Bedi, J.

1. This is a tenant's revision petition against the concurrent findings of fact recorded by the Rent Controller and the Appellate Court. It arises out of the following facts:-

2. Raj Kumar landlord/respondent filed an eviction application under Section 1 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter called the 'Act'), on the allegations that the tenant/petitioner had not paid the arrears of rent w.e.f. 26.9.1977 till the date of filing of the petition; that he had impaired the value and utility of the shop; and that the shop had been kept closed for a period of more than four months without any reasonable cause. The petition was allowed ex-parte vide order of Rent Controller dated 29.2.1980. It is the admitted position that pursuant thereto the landlord took possession of the demised premises on 22.4.1980. The ex-parte proceedings recorded against the petitioner were set aside on 14.11.1985 but the ejectment was nevertheless ordered on the ground that he had ceased to occupy the premises for more than four months without reasonable cause. This finding was affirmed in appeal.

3. The present petition has been filed on behalf of the tenant.

4. I have heard the learned counsel for the parties and have gone through the record very carefully with their assistance.

5. It is the admitted position that the landlord had taken possession of the demised premises more than 23 years earlier. It has also come in evidence that the shop in question had been kept locked since the year 1987 upto the date of the filing of the ejectment petition. Mr. Jaswant Jain has, however, argued that the shop had been kept closed for the reasons that the tenant had been ill and had been admitted to hospital and, had therefore, not been able to conduct his business during that period. It is clear from the record, however, that this particular point has not been raised by the tenant at any stage. On the contrary it has come in the evidence of the landlord/respondent that the shop appeared to have been kept closed for a period of four months in the year 1987 for no apparent reason. To my mind, the finding of fact recorded against the tenant, thus, cannot be disturbed. The petition is accordingly dismissed.