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Court : Himachal pradesh

Decided On : Dec-07-2010

Judge : Justice Rajiv Sharma, J.

Acts : Himachal Pradesh Urban Rent Control Act, 1987

Appeal No. : C. Revision No.132/2010

Appellant : Mohan Lal.

Respondent : Kamla Devi.

Advocate for Def. : Nemo, Adv.

Advocate for Pet/Ap. : Mr. T.S. Chauhan, Adv.

Judgement :

1. This civil revision petition is directed against the judgment dated 1.9.2010 passed by the learned District Judge, Una exercising the powers of Appellate Authority, under the Himachal Pradesh Urban Rent Control Act, 1987 in Rent Appeals No. 2/2010 and 3 of 2010, whereby Rent Appeal preferred by the petitionertenant (hereinafter referred to as tenant for convenience sake) has been dismissed and the Rent Appeal preferred by the respondent-landlady (hereinafter referred to as landlady for convenience sake) has also been dismissed and has also disposed of the Rent Appeal preferred by the landlady, as per the observations contained in the operative portion of the judgment.

2. Material facts necessary for the adjudication of this petition are that the premises were let out by the landlady to the tenant in 1984 on monthly rent of ` 225/-. Landlady sought eviction of the tenant on the ground of arrears of rent with effect from 1.5.1999 and also on the ground that tenant has ceased to occupy the demised premises for more than one year at the time of filing of petition. The tenant contested the petition. Issues were framed on 26.2.2002. The learned Rent Controller ordered the eviction of tenant on account of ceased to occupy and he was also found in arrears of rent with effect from 1.5.1999 to 31.3.2010 amounting to Rs. 46,065/-. Tenant preferred an appeal before the Appellate Authority bearing Rent Appeal No. 2/2010 against the order dated 31.3.2010. Landlady also preferred an appeal bearing Rent Appeal No. 3/2010 against the same order. Learned Appellate Authority dismissed the appeal preferred by the tenant and also ordered that in case the tenant deposits the amount due within 30 days after passing of the order under appeal, he shall not be evicted on the ground of arrears of rent. The present petition has been preferred against the order dated 1.9.2010 rendered in Rent Appeal No.2/2010 and also in Rent Appeal No. 3/2010. 3. Mr. T.S. Chauhan has strenuously argued that the landlady has failed to prove that his client was in arrears of rent with effect from 1.5.1999. He also vehemently argued that the landlady has failed to prove that his client has ceased to occupy the premises 12 months before the filing of the eviction petition.

3. I have heard the Mr. T.S. Chauhan and have perused the judgments passed by both the authorities below.

4. Landlady has appeared as PW-1. She has categorically testified that the tenant has joined the Government job and he has closed the clinic. Raj Bahadur has appeared as PW-2. He has supported the version of landlady. According to him, the demised premises were closed for the last three years. He has also stated that tenant has joined the Government service and has closed his clinic. He has denied the suggestion that tenant was running a clinic in the demised premises and used to open the same daily. PW-3 Mahesh Kumar has proved the site plan Ex.P-1.

5. Tenant has produced electricity bills Ex.R-1 to R-36 on record. Respondent has neither appeared in the witness box nor examined any witness. It is evident from

the statements of PW-1, PW-2 and PW-3 that tenant has joined the Government service as Ayurvedic Medical Officer on 1.5.1999. Summons were sent to him on his office address. Electricity bills produced by the tenant have rightly been discarded by the courts below. Even otherwise, the electricity consumed by the tenant was very low. He has failed to prove that the electricity bills pertain to the demised premises, which were let out to him by the landlady. Since the tenant has joined the Government service, he could not run private clinic. In other words, he has ceased to occupy the demised premises. The findings returned by the Rent Controller that the tenant was in arrears of rent with effect from 1.5.1999 to 31.12.2010 is based on correct appreciation of evidence. The same has rightly been upheld by the Appellate Authority. There is neither any illegality nor any irregularity in the judgments passed by both the courts below.

6. Accordingly, in view of the observations and discussion made hereinabove, there is no merit in the petition and the same is dismissed. There shall, however, be no order as to costs.

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