

(2008) 08 P&H CK 0060
In the Punjab And Haryana At Chandigarh

Dwarka Dass

APPELLANT

Vs

Punjab Handloom Weavers Co-op. Society Ltd. and Another

RESPONDENT

Date of Decision : 27-08-2008

Acts Referred:

East Punjab Urban Rent Restriction Act, 1949 — Section 13

Citation : (2009) 154 PLR 573 : (2009) 2 RCR(Civil) 328 : (2009) 1 RCR(Rent) 320

Hon'ble Judges : Vinod K.Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—Present revision petition is directed against the order passed by the learned Rent Controller as affirmed by the learned Appellate Authority dismissing the petition filed by the petitioner u/s 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short the Act).

2. The petitioner landlord rented out the premises to Punjab Handloom Weavers Cooperative Society Limited (for short the Society), Jalandhar, vide rent note dated 10.8.1958 on monthly rent of Rs. 45/-. The petitioner had claimed the eviction on the ground of non-payment of rent as well as material impairment as also on the ground of sub-letting.

On notice having been issued the demanded rent was paid and accordingly the ground of non-payment of rent ceased to exist. Learned courts below did not find that there was any material alteration in the premises and consequently, rejected the said ground.

3. The plea of the petitioner that the tenant has sublet the premises in dispute also did not find favour with the authorities under the Rent Act and consequently the petition has been ordered to be dismissed.

4. Learned Counsel for the petitioner has challenged the findings recorded by the learned courts below primarily on the ground that in the present case status of

respondents No. 1 and 2 was quite different and there being separate and distinct legal entity handing over the possession by respondent No. 1 to respondent No. 2 amounted to subletting.

5. Learned Counsel for the petitioner contended that the petitioner had placed on record the bye laws of both the Societies as well as different registration certificate which would lead to a conclusion that these were two separate and distinct societies and therefore, the courts below were in error in deciding the question of sub-letting in favour of the tenant and against the landlord.

6. In support of this contention learned Counsel for the petitioner made reference to Section 11 of the Punjab Co-operative Societies Act, 1961 (for short "the Act") wherein it is pointed out that it is open to the Cooperative Societies by way of amendment of its bye-laws to change its name but such change shall not affect any right or obligation of the society or of any of its members or past members and any legal proceedings pending may be continued by or against the society under its new name. Para No. 2 of Section 11 of the Act provides that where a co-operative society changes its name, the Registrar shall enter the new name on the register of co-operative societies in place of the former name and shall amend the certificate of registration accordingly.

7. Evidence was brought on record to show that respondent No. 2 was a public concern which framed its bye laws vide Ex.RC, which subsequently stands changed. Thus, the learned courts below on appreciation of evidence have recorded a concurrent finding of fact that respondents No. 1 and 2 is the same society with the change of name.

8. Learned Counsel for the petitioner has also placed reliance on the judgment of this Court in the case of Produce Exchange Corporation Ltd. and Anr. v. Som Nath and Anr. 1983(2) R.C.R. (Rent) 203 : 1983 (1) All IRCJ 603. However, said judgment has no application to the facts of the present case as that was the case of amalgamation of the company. In the present case there has been no amalgamation of the Society as the amalgamation can be ordered only by passing a specific order u/s 13 of the Punjab Co-operative Societies Act and not otherwise.

9. Learned Counsel for the petitioner finally contended that as new registration certificates was issued, therefore, it is to be treated as a new legal entity and in the absence of consent of landlord it has to be held that it was the case of subletting. This contention is also misconceived. As already observed learned courts below on the basis of evidence brought on record have recorded a concurrent finding of fact that respondents No. 1 and 2 are one and the same society and because of re-organization of the State of Punjab new name had to be given to the said Society.

10. No ground is made out which may call for interference in the impugned orders by this Court.

Dismissed.