
(1984) 07 P&H CK 0085
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 334 of 1984

Rakesh Raj and others

APPELLANT

Vs

Munish Biala Partner M/s Prince Steel Industries

RESPONDENT

Date of Decision : 23-07-1984

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151

Citation : (1984) 2 RCR(Rent) 329

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : H.L Sarin and Mr. M.L. Sarin, for the Appellant; Raj Kumar Garg and Mr. Giani Harjinder Singh, for the Respondent

Judgement

J.V. Gupta, J.—This revision petition has been tiled on behalf of the landlord against the order of the Rent Controller dated 4.3.1983 whereby the application for restoration of the application dated 16-11.1981 was allowed.

2. The landlord obtained an experts ejectmntnt order against the tenant-Respondent on 6 11.1980. An application for setting aside the same was filed on 5 12.1980 However, the said application was dismissed in default on 17 9.1981. On 16.11.1981, another application for restoration of the said application was filed. On 24.11,1981 the tenant made a statement that he be allowed 15 days time to vacate the tenancy premises, by way of compromise Consequently, time was allowed and the application was adjourned to 12.12 1981. On 25.1.1952, the tenant moved an application purporting to be u/s 151 of the CPC (briefly the Code) complaining that the statement made on 24 11-1981 was made by him under pressure and it was on account of wrong suggestion put by his counsel Sh S. K. Sehgal, Advocate and that he had signed the said statement under the impression that arrears of rent were to be de posited within 15 days. It was also alleged that the tenant was deaf and did not know the implication of such a statement. In these circumstances, it was prayed that the earlier applications dated 5 12.1980 and 16.11.1981 be restored. This application was contested on

behalf of the landlord, inter alia on the plea that no such application was maintainable. On merits, the allegations made were controverted. The learned trial Court, after recording the evidence, came to the Conclusion that there was no denying the fact that the statement dated 24.11 1981 was read over to the applicant and his signatures obtained, but if the judgment-debtor laboured under some misunderstanding by which he completely shut his brain and that he was also hard of hearing, the Court was inclined to think that the tenant became a victim of a planned mischief. Ultimately, treating the application to be one under Order 47, Rule 1 of the Code for review, the trial Court found the same to be within time. Consequently, the order dated 24.11 1981 was set aside. It was directed that the application for restoration be proceeded with. Dissatisfied with the same, the landlord filed an appeal in the Court of the learned District Judge, Amritsar. However, vide order dated 19.7 1983, it was held that the appeal as such was not competent under the East Punjab Urban Rent Restriction Act. The appeal being incompetent, the landlords have preferred this revision petition in this Court, against the order of the trial Court dated 4 3 1983.

3. The Learned Counsel for the Petitioners contended that admittedly the Rent Controller treated the application of the tenants under Order 47 Rule 1 of the Code for review, but he had no powers to review as such and therefore, the order passed was without jurisdiction. In support of his contention, reference was made to *S. J. S. Fernandes v. Ranganyakula A.* 1 R 1953 Mad. 236, and *Deep Chand and Anr. v. Addl. Director Consolidation of Holdings* (1964) 66 P.L.R. 318.

4. It was next contended that the provisions of Order 23 Rule 1 of the Code were also not applicable to the proceedings under the East Punjab Urban Rent Restriction Act and therefore, on that basis also, the Rent Controller had no jurisdiction. The only remedy available to the tenants was to file a separate suit. In support of this contention, a reference was made to *Ram Dass Vs. Sukhdev Kaur and Another*. On the other hand, the Learned Counsel for the tenants contended that virtually it was an order passed by the Rent Controller under Order 23 Rule 3 of the Code and under Rule 3-A, no separate suit was competent to challenge the said decree passed on the basis of the compromise. In support of his contention, reference was made to *Roshan Lal and Anr. v. Madan Lal* 1976 R.C.R. 112, *Smt. Nai Bahu v. Lala Ram Narayan* 1978 (1) R.C.R. 211; *Suleman Noormohamed etc. v. Umarbhai Janubhai* 1978(2) R. L. R. 12, and *Sh Manohar and Anr. v. Surjan Singh* 1983 (2) R.L.R.74.

5. After hearing the Learned Counsel for the parties and going through the case law cited at the Bar, I am of the considered view that the impugned order of the Rent Controller will be deemed to have been passed under Order 23 Rule 3, and in view of the provisions of Rule 3-A thereof, no separate suit, as such, was competent. Though the Rent Controller has observed that it is an application for review of his order and therefore, it was within time, but as a matter of fact, it was an application which was fully covered under the provisions of Order 23 Rule 3 of the Code. The judgments relied upon by the Learned Counsel for the

Petitioners have absolutely no relevancy to the facts of the present case. It could not be successfully argued on behalf of the Petitioners that the provisions of Order 23 Rule 3 of the Code, as such, were not applicable to the proceedings before the Rent Controller. Parties can always enter into a compromise in the proceedings pending before the Rent Controller. If, subsequently, it could be proved by evidence that the compromise was arrived at under some mistake or that the compromise was not lawful, then it is only the Rent Controller who can go into the matter before whom the said compromise was arrived at and no separate suit, as such, was competent as barred under Rule 3-A Order 23 of the Code. In that sense, it could not be said to be an order of review of the earlier order. Rather, it is an order on the basis of the compromise arrived at earlier between the parties which was found to be not a lawful one. In this view of the matter, I do not find any illegality or impropriety in the order of the learned Rent Controller as to be interfered with in the revisional jurisdiction of this Court. Consequently, the petition fails and is dismissed with costs.

6. The parties have been directed to appear in the Court of the Rent Controller on the 27th day of August, 1984.