

(2007) 09 P&H CK 0027
In the Punjab And Haryana At Chandigarh

Shivala Damodar Dass

APPELLANT

Vs

Kundan Lal and Another

RESPONDENT

Date of Decision : 17-09-2007

Acts Referred:

Citation : (2008) 2 CivCC 684 : (2008) 2 PLR 381 : (2008) 3 RCR(Civil) 217 : (2008) 2 RCR(Rent) 1

Hon'ble Judges : M.M. Aggarwal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

M.M. Aggarwal, J.—The main ground on which the ejectment petition was contested before the Rent Controller and the appellate Authority was that respondent No. 1 Kundan Lal had taken the premises on rent from the petitioner and he had sublet the same to respondent No. 2.

2. The ejectment petition had been dismissed by the Rent Controller and the appeal filed by the present petitioner against the order of the Rent Controller was dismissed by the Appellate Authority, Kapurthala on 25.10.1990.

3. On behalf of the petitioner-landlord, it was argued that the rent note dated 13.5.1964 Ex.AW2/2 was executed by Kundan Lal and it was nowhere stated in that rent note that the premises were being taken by respondent No. 2 Sarvjit Workshop Cooperative Industrial Society Ltd.

4. Kundan Lal, respondent in this case had stated that he was cashier of the society and the premises were taken for the society.

5. Counsel for the petitioner-landlord had argued that earlier a civil suit was filed against Kundan Lal alleging that he was tenant and in the reply in that civil suit, he had admitted himself to be tenant and nowhere that the society was the tenant.

6. Although the tenancy had come in existence in the year 1964, still the present

petition was filed in 1983, even when petitioner had been accepting rent from the society. The rate of rent was Rs. 15/- per month.

7. RW8, Clerk of Kapurthala Central Cooperative Bank, Phagwara had brought the record showing that the cheque issued on 16.11.1965 regarding payment of rent of Rs. 180/- in favour of the petitioner had been got encashed by the petitioner and that cheque was issued by Sarvjit Workshop Cooperative Industrial Society Ltd. RW9, who is Clerk of the Municipal Committee, Phagwara had brought record showing that some construction plan was got sanctioned in 1964 by the Society for raising constructions on the premises. RW9/A, who is Inspector of the Cooperative Society had brought record showing that resolution in the year 1963-64 had been passed by the Society and that the officials of the Cooperative Department had inspected the premises in 1964 and Kundan Lal was cashier of the Society through out. RW 10 Rajinder Kumar of the Electricity Board had produced record showing that the Society had taken connection for installing electric meter in the premises in 1964. Kundan Lal appearing as RW12 had stated that the premises were taken by the society and the rent throughout was being paid by the Society and he was just cashier of the society.

8. Counsel for the petitioner had relied on judgments of Hon''ble Supreme Court reported in Ram Saran Vs. Pyare Lal and another, and Kundan Lal v. Sona Ram (1988) 94 P.L.R. 649 and Duli Chand (dead) by Lrs v. Jagmender Dass 1990 (1) R.L.R. 445 and argued that the cases before the Hon''ble Supreme Court were similar, where the tenant had surrendered tenancy right in favour of the registered society and even when landlord had accepted the rent from the society, still it was held that there was subletting and it was argued that this was a case, where Kundan Lal had executed the rent note and when society is doing business there, the case of subletting is proved.

9. Here is a case, where from the very beginning since inception of the tenancy, society is running business. It had taken electric connection there and even got a site plan passed from the Municipal Committee in the year in which premises were taken. Even Inspector of the societies had visited the premises. Resolutions had been passed by the society in that very area of start of the tenancy.

10. Even if rent note was executed by Kundan Lal appellant, still for all intent and purposes Society had been tenant and therefore, it cannot be said in the facts and circumstances of the case that Kundan Lal had sublet the premises to the society i.e. respondent No. 2. There are concurrent judgments of two courts below on facts. There is no good ground to interfere. Dismissed.