
(1985) 07 P&H CK 0007
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1287 of 1985

Smt. Barji Devi

APPELLANT

Vs

Shri Mohan Lal Sukhija and another

RESPONDENT

Date of Decision : 16-07-1985

Acts Referred:

Haryana Urban (Control of Rent and Eviction) Act, 1973 — Section 13

Citation : (1986) RCR(Rent) 318 Supp

Hon'ble Judges : Rajendra Nath Mittal, J

Bench : Single Bench

Advocate : R.L. Gupta, for the Appellant; N.K. Kapur, for the Respondent

Final Decision : Allowed

Judgement

Rajendra Natta Mittal, J.—This revision petition has been filed by Smt Barji Devi landlady against the order of the Rent Controller, Dabwali dated 2nd April, 1985. staying the proceedings in an application for ejectment against the Respondents on the ground that on similar grounds an application was filed by her against which a revision petition is pending in the High Court.

2. Briefly, the facts are that the Petitioner filed a petition for ejectment on 12th January, 1982 against Respondents from [the property in dispute u/s 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 on the following grounds:

(a) that the Respondent has not paid the arrears of rent with effect from 1st January, 1979 up-to-date at the rates mentioned above;

(b) that the Respondents has not paid the interest upon the aforesaid arrears of rent at the rate of 8 per cent per annum;

(c) that the Respondent has also not paid the house-tax for the last three years;

(d) that the Respondent is using the said shop in such a had manner that be has impaired materially the value and utility of the said building:

(e) that the Respondent keeps the said building closed for months together without taking care of the safety of the said building;

(f) that the building is required by the applicant for her own use and occupation; and

(g) that Respondent No. 1 has sublet the premises in dispute to Respondent No 2.

3. The Respondent No. 1 filed an application that the petition for ejectment be stayed as the Petitioner had filed a petition for ejectment on similar grounds in which the order of ejectment had been passed by the Rent Controller. The order of ejectment was affirmed by the appellate authority. Now a revision against that order is pending in the High Court. The Rent Controller accepted the application and stayed the proceedings. The Petitioner has come up in revision to this Court.

4. The Learned Counsel for the Petitioner has fairly admitted that the grounds mentioned at serial Nos. (c),(d),(e) and (f) were the subject matter of the earlier petition. Consequently he has made a statement before me that he gives up those grounds and would not press the same. He further says that he will seek ejectment of the respondent on the grounds mentioned at serial Nos. (a), (b) and (g) of para 2 of the petition. The said grounds, he contends, were not taken in the earlier petition and, therefore, the present petition could not be ordered to be stayed.

5. I have duly considered the argument and find force in it. The previous petition for ejectment was filed on 27th December, 1978, inter alia on the ground that the Respondents had not paid the rent from 1st January, 1976 up-to-date. As the petition was filed on 27th December, 1978, therefore, the rent in dispute in the earlier petition could be upto 31st December, 1978. In the present petition, the rent claimed is from 1st January, 1979 upto the date of filing the petition. Thus, the periods for which the rent had been claimed in the previous petition and that claimed in the present petition are different. The Rent Controller while deciding the application took into consideration the order of this Court in Civil Revision No. 2702 of 1983 whereby the tenant was directed to deposit all arrears of rent in pursuance of which the rent from 1st April, 1984 to 31st March, 1985 was deposited by the Respondents. It is observed by the learned Rent Controller that the Respondents have also deposited arrears of rent from 1st April, 1985 to 31st March, 1986. However, as already mentioned the dispute is regarding the rent from 1st January, 1979 to 15th January, 1982 and not for the later period. The said period was not the subject matter of the earlier litigation. The Rent Controller shall have to determine in the present petition whether the rent for the period in dispute had been deposited by the Respondents or not.

6. The plea taken in para (b) of para 2 of the petition is a part of plea taken in para (a). In case the Respondents are liable to pay rent, they are also liable to pay interest.

7. The other ground which is sought to be urged in the present petition is that

the Respondent No. 1 sublet the premises to Respondent No 2. Admittedly, this plea had not been taken in the previous petition. It has been, held by P.C. Jain, J (now the Acting Chief Justice) in *Rattan Singh v. S. Jagjit Singh Mann* 1978 (1) R. C. J. 53, that if an application of a landlord for ejectment has been filed only on one specific ground, he is not debarred from filing another ejectment application on the different ground other than the one on which he had filed the earlier petition in case the previous petition failed. Similar view has been taken by a Full Bench of this Court in *Harnam Singh v. Surjit Singh* (1984) 86 P. L. R. 104.

8. Therefore, even if the ground of subletting was not taken in the earlier petition, the present petition is maintainable on that ground. The effect of not taking that plea in the earlier petition will be considered by the learned Rent Controller, if the premises had been sublet prior to the date of institution of the previous petition, at the time of giving decision in this petition. The present petition cannot be stayed on the ground that the plea had not been taken in the earlier petition

9. After taking into consideration all the above-said circumstances, I accept the revision petition, set aside the order of the Rent Controller and direct him to proceed with the ejectment petition. No order as to costs.