
(2010) 12 P&H CK 0414
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 8007 of 2010

Surjit Singh and Another

APPELLANT

Vs

Sudarshan Kaur and Another

RESPONDENT

Date of Decision : 09-12-2010

Acts Referred:

Citation : (2010) 12 P&H CK 0414

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Kanwaljit Singh Ahluwalia, J.—The Rent Controller, Dasuya, vide his order dated 4.12.2004, has ordered ejectment of the Petitioners on the following grounds:

- A) The Petitioners have failed to tender the arrears of rent.
- B) The premises in dispute has become unfit and unsafe for human habitation and is in dilapidated condition.
- C) For a period of more than two years, the tenants have ceased to occupy the premises in dispute.

2. So far as the ground of non payment of arrears of rent is concerned, this Court may have formulated a different opinion as the Petitioners have deposited the rent in the treasury for a period commencing from 1.7.1999 to 31.12.2000. The Rent Controller held that no rent has been paid from October 1994 to 30.6.1999 as the Petitioners could not produce any receipt. The matter of fact is that the landlord, who had instituted the eviction petition and was allegedly issuing the receipts, had died during the pendency of the eviction petition. A long silence on behalf of the landlord, not to claim arrears of rent, may look improbable. Furthermore, no adjudication of provisional assessment of the rent has been made in terms of the law laid down in *Rakesh Wadhawan and Others Vs. Jagdamba Industrial Corporation and Others*, .

3. However, so far as the finding that the building in dispute is unfit and unsafe for human habitation is concerned, the landlords have examined the Building Expert PW.1 Kuldip Kumar, who was a Draftsman/Diploma Holder in Civil Engineering and Local Commissioner Parveen Chadha, Advocate, as PW.2, who also proved the condition of the building. The stand of the Petitioners/tenants that the roof of the building was damaged by the landlords and they could seek repair of the premises, was not believed, but construed by the Rent Controller as corroboration to the version of the landlord.

4. The above said findings have been affirmed by the Appellate Authority, Hoshiarpur, vide his order dated 21.9.2010. Both the Courts below have given the concurrent finding of fact that the building is unsafe and unfit for human habitation and the tenants have ceased to occupy the demised premises.

5. At this stage, learned Counsel for the Petitioners submits that the Petitioners will not press the present revision petition in case sufficient time is granted to them to handover the actual physical peaceful vacant possession of the demised premises to the landlords. It has come in the evidence that instead of roof, tarpaulin is existing in the premises in dispute. The Petitioners are engaged in the business of watch repair. Even though the finding is that the Petitioners have ceased to occupy the demised premises, learned Counsel for the Petitioners submits that atleast for a sufficient period the Petitioners, can put an advertisement on the demised premises, so that the customers can come to the alternative place where they shall begin their business afresh.

6. This Court tends to consider the request made by learned Counsel for the Petitioners.

7. As prayed, the present revision petition is dismissed as not pressed.

8. However, a period of eight months, commencing from 1.1.2011, is granted to the Petitioners/tenants to make an alternative arrangement subject to their furnishing an undertaking on or before 15.1.2011 to the Court of Rent Controller, Dasuya, that they shall handover actual physical peaceful vacant possession of the demised premises to the Respondents/landlords by 31.8.2011. The undertaking will also state that the rent due for following months shall be paid on or before 7th of each month. The entire arrears of rent, if any, shall be deposited in the Court of Rent Controller, Dasuya, by 15.1.2011.