

CR-930-2025 (O&M)

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PHHC :

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-930-2025 (O&M)
Decided on : 13.02.2025

Pardeep Saini

..... Petitioner

Versus

Ashok Sharma

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Mohit, Advocate for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

CM-2891-CII-2025

Application is allowed as prayed for, subject to all just exceptions.

CR-930-2025 (O&M)

The tenant (Pardeep Saini) is in revision against the order dated 03.01.2025, passed by the learned Appellate Authority, Bhiwani, dismissing the appeal filed by him against the *ex parte* order of eviction dated 03.09.2024 passed by the Court of learned Rent Controller, Loharu (District Bhiwani).

2 (i). The facts, as emanating from the revision petition, are that the respondent-landlord (Ashok Sharma) filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as 'the Rent Act') for eviction of the tenant from a shop (fully described in the eviction petition) (hereinafter referred to as 'the shop in dispute') situated

at Dhigawa Jatan, Tehsil Loharu, District Bhiwani. The case of the landlord was that the shop in dispute was let out to the tenant vide a rent note dated 14.02.2022 for a period of 11 months i.e. upto 14.01.2023. The rent was Rs.15,000/- per month. Eviction was sought on the ground of arrears of rent @ Rs.15,000/- per month w.e.f. 15.01.2023 to 14.02.2024 and bonafide necessity, for, as per the landlord, he required the shop in dispute to start his own business of a grocery shop.

2(ii) The tenant did not appear despite service and was accordingly proceeded against *ex parte* on 01.05.2024. In the *ex parte* evidence, the landlord himself stepped in the witness box as PW1 and also examined one Manoj Kumar as PW2. Apart from the oral evidence, documents Ex.P1 to Ex.P5 were produced. The Court of learned Rent Controller allowed the eviction petition on both grounds and the tenant was directed to vacate the shop in dispute within one month from the date of passing of the eviction order. An appeal was preferred by the tenant which was also dismissed by the learned Appellate Authority vide order dated 03.01.2025 leading to the filing of the present revision petition.

3. I have heard learned counsel for the petitioner.

4(i). Learned counsel for the petitioner has submitted that both the Courts erred in allowing the eviction petition despite no cogent evidence having been led by the landlord. Learned counsel submits that even though, the tenant had been proceeded against *ex parte*, the eviction petition could have succeeded only on the strength of the evidence led by the landlord and not on account of the tenant not having contested the same.

4(ii). Learned counsel has also submitted that the period for which

rent was claimed i.e. 15.01.2023 to 14.02.2024 itself shows that the rent for the period for which the rent note was executed had duly been paid and, under the circumstances, it was for the landlord to prove by leading cogent evidence that the rent for the period in question had not been paid. Learned counsel also submits that apart from the rent agreement, no document of title was produced to prove that the landlord was the owner of the shop in dispute. Learned counsel submits that even the electricity bill produced by the landlord was in the name of one Basant Lal who is the son of the landlord and not the landlord himself. Learned counsel further submits that the brother of the landlord namely Manoj Sharma who appeared as a witness had borrowed a sum of Rs.20,00,000/- from the tenant in December, 2014 and had executed a pronote worth Rs.33,00,000/-. Learned counsel submits that prior to 2018, the said Manoj Sharma was looking after the shop in dispute and only in 2018, it was informed that the shop in dispute had fallen to the share of the landlord. Learned counsel submits that in the year 2024, a dispute had arisen between Manoj Sharma and the tenant and with a view to settle the same, a Panchayat had also been convened. It had been agreed that in view of the amount obtained by Manoj Sharma, the shop in dispute would be transferred to the tenant and only with a view to avert the said transfer, the eviction petition was filed by the landlord in collusion with his brother Manoj Sharma. Learned counsel submits that the learned Appellate Authority did not consider these facts and erroneously dismissed the appeal filed by the tenant. In support of his contentions, learned counsel has placed reliance upon the judgment of Supreme Court of India in ***Smt. Sudha Devi versus M.P.Narayanan 1988 AIR Supreme Court 1381.***

5. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit. Admittedly, the tenant did not appear before the Court of Rent Controller despite service and was proceeded against *ex parte* firstly on 20.03.2024. After *ex parte* evidence having been produced on 10.04.2024 and the case having been fixed for *ex parte* arguments for 24.04.2024, an application was moved by the tenant for setting aside the order vide which he had been proceeded against *ex parte*. However, subsequently, the tenant again did not appear before the learned Rent Controller and was again proceeded against *ex parte* on 01.05.2024 and the case was again posted for *ex parte* arguments. The case was then adjourned a number of times for *ex parte* arguments and eventually, the petition was decided on 03.09.2024. Considering the evidence led by the landlord which included the statement of the landlord which had gone unrebutted as also the statement of PW2 Manoj Sharma, the learned Rent Controller allowed the eviction petition. The appeal preferred by the tenant against the said order was also rightly dismissed. For the sake of repetition, it has to be borne in mind that the evidence led by the landlord went totally unrebutted and, there was no circumstance which may have led the Courts to disbelieve the version put forth by the landlord and dismiss the eviction petition. In the considered opinion of this Court, no illegality was committed by the Courts in allowing the eviction petition. The judgment relied upon by learned counsel for the petitioner lays down that even where a defendant has been proceeded against *ex parte*, the Court should not pass an *ex parte* judgment without reliable relevant evidence. There is absolutely no dispute in the said position of law. However, in the present case, as noticed above,

the evidence led by the landlord was found to be trustworthy and sufficient to prove the case of the landlord. Therefore, this Court does not find any reason to interfere in the judgments under challenge.

In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed.

Pending application(s), if any, stand(s) disposed of accordingly.

(VIKRAM AGGARWAL)
JUDGE

13.02.2025

mamta

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No