

**2023 STPL(WEB) 1 HP  
HIGH COURT OF HIMACHAL PRADESH**

(HON'BLE MR. JUSTICE VIVEK SINGH THAKUR, J.)

**GOPAL KRISHAN**

Petitioner

*VERSUS*

**DASHODHA & OTHERS**

Respondents

Civil Revision No. 80 of 2010-Decided on 3-7-2023

**Eviction**

**(A) H.P. Urban Rent Control Act, 1987 – Section 24(5) – Eviction – Petition by one landlord maintainable** – Revision against allowing eviction – Plea there is no owner of the property because property is joint and has not been partitioned and all owners have neither filed eviction petition nor have consented for that. Plea rejected – Held: It is more than settled that all landlords are not necessarily to file separate petitions or joint petitions by including all other landlords for eviction of the tenant by filing Rent Petition. Therefore, plea of tenant that other landlords/coowners have not filed the petition or consented to file the petition is not tenable in the eyes of law

(Para 13, 15)

**(B) H.P. Urban Rent Control Act, 1987 – Section 24(5) – Eviction – Bonafide requirement** – Revision against eviction order – Held: Tenant has admitted that the photographs of the building (demised premises) and he has admitted that RCC structure of the building cannot be constructed without vacating the suit premises. He has also admitted that building in question is about 100 years old, constructed of mud and stone walls and its floors have been damaged. As a matter of fact, in cross-examination his admissions have substantiated the case and cause of landlords. Plea of Bonafide requirement of landlord established – Eviction order valid.

(Para 16)

**(C) H.P. Urban Rent Control Act, 1987 – Section 24(5) – Eviction – Arrears of rent** - Tenant himself has admitted that he had not paid any rent to the landlords we.f. 13.09.2003. Admission of fact does not require to be proved and, therefore, admission of the tenant is sufficient to arrive at a conclusion that he was in arrears of rent – Eviction order held to be valid – Revision against dismissed.

(Para 20)

Advocate(s): For the Petitioner: Mr.Vivek Sharma, Advocate.

For the Respondents: Respondent No.1 deleted vide order dated 21.04.2017

Ms.Seema K. Guleria, Advocate, for respondents No.2 and 3.

**JUDGMENT**

**Vivek Singh Thakur, J.-**Present Revision Petition has been preferred by tenant against judgment dated 16.06.2010, passed by Appellate Authority, Shimla, in Civil Miscellaneous Appeal No.69-S/14 of 2009, titled as Gopal Krishan vs. Dashodha & others, affirming order dated 30.09.2009, passed by Rent Controller (V), Shimla, in Rent Petition No.14-2 of 2006, titled as Dashoda & others vs Gopal Krishan, ordering ejection of the tenant on the ground of arrears of rent as well as on the basis of bonafide requirement of the landlords, has been upheld.

2. Landlords (respondents herein) had filed Eviction Petition against the tenant on the grounds that tenant (petitioner herein) has been in arrears of rent @ `100/- per month w.e.f. 13.09.2003, the premises in reference is required bonafide by the landlords for the purpose of building or rebuilding which is not possible without premises being vacated, and premises is required by the landlords for making substantial addition and alteration, which are not possible without premises being vacated.

3. Eviction Petition has been opposed by the tenant on the ground that there is no relationship of landlords and tenant between the parties and property in question is jointly owned by various co-owners and in absence of all co-owners, petition is not maintainable. Further that, landlords has no exclusive right to reconstruct or rebuild the premises as alleged and, therefore, plea of requirement of premises bonafide, has been opposed.

4. Landlords have examined three witnesses.

Whereas, tenant has examined five witnesses in his support.

5. The ground of requirement for making substantial addition and alteration was not pressed by the landlords before the Rent Controller.

6. After taking into consideration entire evidence and material placed on record, Rent Controller passed eviction order dated 30.09.2009 against the tenant, with finding that tenant was in arrears of rent @ `100/- per month w.e.f. 13.09.2003 till the date of pronouncement of order and landlords were also held entitled for statutory interest @ 9% on the arrears of rent till its realization, and tenant was also held liable to be evicted as the premises was required bonafide by the landlords for the purpose of rebuilding which was not possible without the premises being vacated.

7. Tenant, being aggrieved by the aforesaid eviction order, preferred an appeal before the Appellate Authority, which was dismissed on 16.06.2010. The said judgment has been assailed in present petition.

8. PW.1 Surinder Thakur has deposed on behalf of the landlords and PW.2 Dr. S.D. Sharma is local resident of the area. Whereas, PW.3 B.C. Sharma has prepared technical report Ex.PW.3/A and he has proved photographs Ex.PW.3/C to Ex.PW.3/E.

9. Gopal Krishan tenant has appeared as RW.1 and has also examined RW.2 Suresh Kumar, who has prepared technical report Ex.RW.2/A and Map Ex.RW.2/B. RW.3 Sanam Negi, RW.4 Bhim Singh and RW.5 Khem Dass have been examined by tenant as local residents of area. RW.4 is nephew of Gopal Krishan.

10. Landlord Surinder Thakur, examined as PW.1, in his deposition has asserted that he alongwith co-owners is owner of the premises in reference which is in dilapidated condition and, therefore, landlords intend to reconstruct this building through RCC structure. He has further stated that tenant has not been paying rent etc. to the landlords despite issuance of notices by post. He has also stated that rent w.e.f. September 2003 till date was due which was required to be paid alongwith interest.

11. In cross-examination, nothing favourable could be elucidated in favour of the tenant as PW.1 has reiterated the stand of the landlords taken in the petition as well as in her examination-in-chief.

12. PW.2 Dr.S.D. Sharma has also corroborated the case of the landlords. PW.3 B.C. Sharma has proved Expert's report prepared by him with respect to status of the building on record.

13. Tenant-Gopal Krishan RW.1, in his deposition has stated that after death of Dwarku Devi, Dashodha Devi and others never claimed themselves to be landlords and they have no right to institute the eviction petition as they are not the owners and in these days there is no owner of the property because property is joint and has not been partitioned and all owners have neither filed eviction petition nor have consented for that.

14. RW.1-Gopal Krishan, in his cross-examination, has admitted that landlords were not co-sharers in the property and landlord Dwarku Devi was residing with landlords. He has deposed that he used to pay rent to Balak Ram Lamberdar, but not to Ram Krishan, father of some landlords and earlier he used to pay rent to Balak Ram and, thereafter, to Dwarku and after the death of Dwarku, he has not paid any rent to anyone since September 2003.

15. It is more than settled that all landlords are not necessarily to file separate petitions or joint petitions by including all other landlords for eviction of the tenant by filing Rent Petition. Therefore, plea of tenant that other landlords/coowners have not filed the petition or consented to file the petition is not tenable in the eyes of law.

16. PW.2 Dr.S.D. Sharma has supported case of the landlords and RW.2 to RW.4 have supported case of tenant. However, admission by RW.2 during his deposition in Court are shattering case of the tenant with respect to status and condition of the building as he has admitted that the photographs Ex.PW.3/C to Ex.PW.3/E are the photographs of the building (demised premises) and he has admitted that RCC structure of the building cannot be constructed without vacating the suit premises. He has also admitted that building in question is about 100 years old, constructed of mud and stone walls and its floors have been damaged. As a matter of fact, in cross-examination his admissions have substantiated the case and cause of landlords.

17. Photographs of the building, report of PW.3 B.C. Sharma, coupled with admission of RW.2 Suresh Kumar clearly indicate dilapidated condition of the building which is required to be reconstructed or revamped after removing old structure and it is required to be vacated.

18. Though tenant has also placed on record technical report of Expert Ex.RW.2/A alongwith Map Ex.RW.2/B, but on comparing the status of the building with the building in photographs Ex.PW.3/C to Ex.PW.3/E as well as technical report Ex.PW.3/A and also admission of RW.2 Suresh Kumar it is apparent that the report Ex.RW.2/A and Map Ex.RW.2/B are not in consonance with factual position, whereas, technical report Ex.PW.3/A substantiates plea taken by the landlords. Therefore, Courts below have rightly arrived at the conclusion that building is required bonafide by the landlords for reconstruction and rebuilding because repair of 60 years old building was not feasible.

19. Though tenant had admitted that he was paying rent to Dwarku, who was residing with persons, who have filed Eviction Petition in present case, but he has refused to recognize these persons as his landlords and has categorically stated that he did not pay any rent to anybody since September 2003. Landlords have placed on record revenue record indicating that their ownership right upon premises under reference has been duly recorded in the revenue record.

20. Tenant himself has admitted that he had not paid any rent to the landlords w.e.f. 13.09.2003. Admission of fact does not require to be proved and, therefore, admission of the tenant is sufficient to arrive at a conclusion that he was in arrears of rent w.e.f. 13.09.2003.

21. After going through the entire evidence and record, I do not find any illegality, irregularity, infirmity or perversity in the impugned order and judgment passed by the Rent Controller and Appellate Authority.

22. In view of above discussion, I am of considered view that the Courts below have appreciated the evidence in its right perspective and conclusion arrived at by the Courts below is probable and prudent and does not warrant any interference by exercising powers under revisional jurisdiction.

23. Considering scope of interference in Revision Petition preferred under Section 24 (5) of the H.P. Urban Rent Control Act, 1987, I do not find any reason to interfere in the impugned order and judgment. Accordingly, revision petition is dismissed. No orders as to costs.

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

25. Records be sent back to the concerned Courts immediately.

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