

SUPREME COURT OF INDIA

Madan Lal

Vs.

Hardeep Kaur

C.A.No.763 of 2009

(Tarun Chatterjee and H.L.Dattu JJ.)

06.02.2009

ORDER

1. Leave granted.

2. This appeal is directed against a final order dated 16th of October, 2007 passed by a learned Judge of the High Court of Punjab and Haryana at Chandigarh in Civil Revision Case No. 6087 of 2006.

3. The respondent Hardeep Kaur had filed an eviction petition under Section 13 of the *East Punjab Urban. Rent Restriction Act, 1974*. The appellant entered appearance before the Rent Controller, Chandigarh, and filed his written statement denying the material allegations made in the eviction petition.

4. The trial Court had framed issues, one of which was whether the suit premises was required bona fide for the purpose of personal necessity of the respondent. Subsequent to the filing of the written statement, the appellant also filed amended written statement/counter claim, denying the relationship of landlord and tenant as well as bona fide requirement of the respondent.

5. By an order dated 14th of June, 2005, the Rent Controller, Chandigarh had allowed the eviction petition and ordered eviction of the appellant. Aggrieved by the aforesaid order of the Rent Controller, the appellant filed an appeal before the District Judge, Union Territory, Chandigarh. During the pendency of the appeal, the appellant filed an application for acceptance of additional evidence under Order 41 Rule 27 of the *Code of Civil Procedure* (in short "the Code"). The District Judge, Union Territory, Chandigarh subsequently, by an order dated 14th of September, 2006, dismissed the appeal of the appellant.

6. The appellant, thereafter, moved the civil revision case being Civil Revision Case No. 6087 of 2006 before the High Court which, by the impugned order, was also rejected. Feeling aggrieved, the appellant has come up by way of a Special Leave Petition to this

Court, which on grant of leave, was heard in the presence of the learned Counsel for the parties.

7. Having heard the learned Counsel for the parties and examined the impugned order as well as the other materials on record, in our view, the order passed by the High Court in revision case is liable to be set aside on a simple ground. A plain reading of the impugned order would show that the revision case was rejected by the High Court only on the ground that the appellant had failed to bring to the notice of the Court that the application under Order 41 Rule 27 of the Code was rejected by the Appellate Authority, although the appellant had taken a plea before the High Court that such an application having been filed, was not at all taken into consideration by the District Judge, being the Appellate Authority. It is only on this ground that the civil revision case was rejected by the High Court. It is true that the application under Order 41 Rule 27 of the Code, filed by the appellant, was rejected by the learned District Judge, Union Territory, Chandigarh, but the order dismissing the appeal did not show that there was any reference made to the rejection of the application of the appellant filed under Order 41 Rule 27 of the Code. A perusal of the order of the Appellate Authority would also show that the application under Order 41 Rule 27 of the Code was rejected on the same date but by a separate order, which was not within the knowledge of the appellant at the time the notice was issued by the High Court entertaining the revisional application. Even assuming that the fact of such rejection was not brought to the notice of the High Court, it could not lead to rejection of the civil revision case without deciding the same on merits. Therefore, the High Court was not justified in rejecting the civil revision case without going into the merits as to whether the respondent was entitled to an order of eviction on the ground that she required the suit premises for her own use and occupation.

8. In this view of the matter, we set aside the order of the High Court and send the case back to it for fresh disposal in accordance with law. The High Court is requested to dispose of the matter within three months from the date of communication of a copy of this order without granting unnecessary adjournments to either of the parties.

9. The appeal is thus allowed to the extent indicated above. There will be no order as to costs.