

*Before Sandeep Moudgil, J.*

**DEEPA AND ANOTHER** —*Petitioner*

*versus*

**SANATAN DHARAM SABHA (REGISTERED) AMBALA  
CANTT. AND ANOTHER** —*Respondent*

**CR No. 205 of 2022**

March 22, 2022

**A. Haryana Urban (Control of Rent and Eviction) Act, 1973—S. 13 (3) (a) (iii)—Tenant denying relationship of landlord and tenant — Held, predecessor-in-interest inducted as tenant by owners—Document duly proved—No contrary document lead in evidence—Section 13 (3) (a) (iii) of Act categorically defining relationship of landlord and tenant to extent that “once a tenant is always a tenant”—Order of Eviction and direction to tenant to vacate demised premises within period of one month.**

*Held*, that in the light of the afore-said provisions the material before this Court as has been referred by the respondents primarily is the cross examination of Rakesh Gupta to show that from Ex.P-1 it is abundantly clear that Madal Lal predecessor-in-interest was inducted as tenant by Hari Krishan Dass, Radha Krishan Dass and Sham Sunder Dass. The document Ex.P1 stands duly proved and no other document contrary to the same has been lead in evidence and added with the fact that PW-2 Rakesh Gupta in his cross-examination reiterated that Y.P. Dass and Vijander Dass were members of the family of Murali Mal added with the reiterated facts that Madan Lal was inducted as tenant of the Sabha.

(Para 10)

*Further held*, that Section 13 (3) (a) (iii) of the Act has set the dust very categorically defining the relationship of landlord and tenant to the extent that “once a tenant is always a tenant”.

(Para 11)

**B. Haryana Urban (Control of Rent and Eviction) Act, 1973, Section 13—Plea of adverse possession cannot be taken while denying title.**

*Held*, that as far as the question of adverse possession is concerned on the one hand the petitioners are denying the title of the

respondents and at the same time raising the plea of adverse possession, which is not permissible until or unless petitioners admitted the title of respondents and thereafter to establish adverse possession by leading evidence.

(Para 12)

***C. Haryana Urban (Control of Rent and Eviction) Act, 1973, Section 13 — Order of eviction — Petitioners legal heirs of deceased employee of Sabha—Without rent deed in their favour—Mere deposit of Rs.10,800/- as arrears of three years rent from 01.01.2010 to 31.12.20212 is of no help to them—Hence, order of eviction upheld.***

*Held*, that it will not be out of place to hold that the petitioners have no locus standi to stay in the demised premises as they are the legal heirs of the deceased employee of Sabha who were required to vacate the premises after the death of the Madan Lal, which they did not do. As such, they have become unauthorized tenants. In fact, the petitioners, in the absence of any rent deed, have failed to prove monthly rent of the demised premises, as such deposit of Rs.10,800/- as arrears of three years rent from 01.01.2010 to 31.12.20212 is of no help to them.

(Para 13)

S.S. Antal, Advocate, *for the petitioners.*

Sanjay Jain, Advocate, *for the respondents.*

### **SANDEEP MOUDGIL, J.**

(1) Instant petition has been filed by Deepa and Ms. Ridham (who are respondents before the Appellate Authority) against the order dated 16<sup>th</sup> December, 2021 passed by the Appellate Authority, Ambala whereby, they have been directed to vacate the demised premises within a period of one month from the date of passing of the judgment and also to pay the arrears of rent w.e.f. 1<sup>st</sup> January, 2010 to 31<sup>st</sup> December, 2012 and occupation charges of the demised premises till its vacation, failing which the appellants/petitioners would be entitled to get the same vacated and recover rent amount through the process of the Court.

(2) Factual matrix, leading to the filing of present petition, is that Late Lala Murli Mal was the owner of the property in question, who had constructed the said building for public purposes. The said building has been used as per the wishes and desire of Late Lala Murli

Mal and after his death his sons Radha Krishan, Hari Krishan Dass and Sham Sunder Dass became its owners. Vide Deed of Settlement dated 18<sup>th</sup> March, 1966, the property in dispute was given to Sanatan Dharam Sabha, Ambala Cantt for running MMSD Industrial School for Women by the above-said sons of Late Lala Murli Mal. One Madan Sarup, who was an employee of Sanatan Dharam Sabha (Regd.) Ambala Cantt., which runs MMSD Industrial School of Women and was allowed to occupy one room in the school premises for his residential purposes. After the death of Madan Sarup, his son Ram Narain Sarup (husband of petitioner No.1-Deepa) was allowed to stay in the said room being the son of the deceased employee of the institution on compassionate grounds. Since then the petitioners are in occupation of said one room in the school premises as a licensee.

(3) Respondents filed Eviction Petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, to evict the petitioners as the person who was the employee of the Sabha was no more. But to no avail. The Rent Controller, Ambala dismissed the Eviction Petition vide judgment dated 18<sup>th</sup> May, 2017. Aggrieved with the said judgment, petitioners before the trial Court preferred an appeal which was allowed by the learned Appellate Authority, Ambala vide judgment dated 16<sup>th</sup> December, 2021. Consequently, this petition has been preferred by the petitioners.

(4) Learned counsel for the petitioners contends that the respondents have failed to prove the relationship of landlord and tenant between the parties, which is the main requirement of the Eviction Petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973. He further contends that no Rent Deed/Lease Deed was ever executed between the parties. Neither any amount of rent was fixed nor any receipt thereof, was placed on record by the respondents. He, further argued that the Deed of Settlement (Annexure P-4) was executed between the owner of the building in question and Sanatan Dharam Sabha (Registered).

(5) It has been also asserted that the petitioners have become the owners of the property by way of adverse possession, as their long possession is continuous and has never been disturbed. He also contended that the respondents have sought the ejection on two grounds; that the condition of the building in question is dilapidated and is unsafe for human habitation and the petitioners have not paid rent for the last more than 3 years and to show her *bona-fides*, petitioner No.1 has deposited an amount of Rs.10,800/- w.e.f. 01.01.2010 to

31.12.2012 as the arrears of rent of three years.

(6) On the other hand, Mr. Sanjay Jain, learned counsel for the respondents contends that the property in dispute was given to Sanatan Dharam Sabha for public and religious purposes and also for running MMSD Industrial School for Women, by Murli Mal, being actual owner of the property in question. The demised premises was in occupation of Madan Lal as tenant who died leaving behind his son Ram Narain, who also died leaving behind the petitioners as his legal heirs. Mr. Jain, further submitted that they have been using the same for their residence @ Rs.300/- per month, however, they have not paid any rent for the last three years and building is unsafe for human habitation. Finally, the arguments were concluded by Mr. Jain pleading that the demised premises has to be demolished for construction of new building from plinth level. The suit filed against the Ram Narain was dismissed in default as the registered copy of the settlement deed was not available.

(7) I have considered the submissions made by counsel for the parties and have gone through the record on the case file.

(8) This Court does not find any merit in the contention raised by learned counsel for the petitioners with regard to adverse possession. The cogent and specific evidence has to be lead to prove the adverse possession. Since the petitioners deny the relationship of landlord and tenant between them and the respondent-Sabha, plea of adverse possession is not available to them.

(9) On the question of denial of relationship of landlord and tenant by the petitioners, a glance at the definition as envisaged under Section 13 (3) (a) (iii) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as 'Act') can be drawn, which reads as under:-

**“13. Eviction of tenants-**

(3) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession-

(a) in the case of a residential building. if,--

(iii) it was let to the tenant for use as residence by reason of his being in the service or employment of the landlord, and the tenant has ceased, whether before or after the commencement of this Act, to be in such service or

employment:

Provided that where the tenant is a workman who has been discharged or dismissed by the landlord from his service or employment in contravention of the provisions of the Industrial Disputes Act, 1947, he shall not be liable to be evicted until the competent authority under that Act confirms the order of discharge or dismissal made against him by the landlord;”

(10) In the light of the afore-said provisions the material before this Court as has been referred by the respondents primarily is the cross-examination of Rakesh Gupta to show that from Ex.P-1 it is abundantly clear that Madal Lal predecessor-in-interest was inducted as tenant by Hari Krishan Dass, Radha Krishan Dass and Sham Sunder Dass. The document Ex.P1 stands duly proved and no other document contrary to the same has been led in evidence and added with the fact that PW-2 Rakesh Gupta in his cross-examination reiterated that Y.P. Dass and Vijander Dass were members of the family of Murali Mal added with the reiterated facts that Madan Lal was inducted as tenant of the Sabha.

(11) Section 13 (3) (a) (iii) of the Act has set the dust very categorically defining the relationship of landlord and tenant to the extent that *“once a tenant is always a tenant”*.

(12) As far as the question of adverse possession is concerned on the one hand the petitioners are denying the title of the respondents and at the same time raising the plea of adverse possession, which is not permissible until or unless petitioners admitted the title of respondents and thereafter to establish adverse possession by leading evidence.

(13) It will not be out of place to hold that the petitioners have no *locus standi* to stay in the demised premises as they are the legal heirs of the deceased employee of Sabha who were required to vacate the premises after the death of the Madan Lal, which they did not do. As such, they have become unauthorized tenants. In fact, the petitioners, in the absence of any rent deed, have failed to prove monthly rent of the demised premises, as such deposit of Rs.10,800/- as arrears of three years rent from 01.01.2010 to 31.12.2012 is of no help to them.

(14) In view of the above discussion, I do not find any infirmity, illegality or perversity in the impugned judgment. Hence no ground for interference is called for by this Court.

(15) Dismissed.

(16) Pending application(s) if any, shall also stand disposed off.

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*Ritambhra Rishi*