

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR NO.10 OF 2015 (O&M)
DATE OF DECISION : 12th JANUARY, 2015

M/s. Vinay Iron Store

.... Petitioner

Versus

Prem Chand Gupta

.... Respondent

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

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Present : Mr. V.K. Jindal, Senior Advocate with
Mr. Brijeshwar Kaushik, Advocate and
Mr. Akshay Jindal, Advocate for the petitioner.

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SURINDER GUPTA, J. (ORAL)

1. This revision petition has been filed against concurrent finding of the Rent Controller and the Appellate Authority, Ambala, whereby appellant was ordered to be ejected from demised premises bearing house tax no.2155, Block II, (old no.5608/3) situated in Old Anaj Mandi, Ambala City, on the ground of personal bonafide necessity of premises by respondent-landlord.

2. Respondent herein filed petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act no.II of 1973 (later referred to as 'the Act'), seeking ejectment of petitioner-tenant from the demised premises on the ground of non-payment of rent and personal bonafide necessity which reads as follows:

“i) That the respondent is in arrears of rent from 01.10.2005 to 31.05.2007 i.e. for 20 months which comes to Rs.38,000/-,

which the respondent has not paid in spite of repeated demands.

As a matter of fact, the respondent is habitual defaulter and is most irregular in payment of rent and lastly, he paid the rent for the period from 01.04.2004 to 30.09.2005 on 29.05.2006.

ii) That the petitioner requires the shop in question for his and his two sons Vineet Kumar and Puneet Gupta. At present the petitioner is doing the business of scientific goods under the name of Paramount Scientific Works in premises No.5442/5 and 5445/2, Anaj Mandi, Ambala Cantt and his younger son Puneet Gupta is working with the petitioner. These premises are on rent with the petitioner under Shri Rameshwar Dass and Shri Rameshwar Dass has filed ejectment petitions against the petitioner on the ground of his own personal necessity. The petitioner's elder son Vineet Kumar is running Unit of Paramount Scientific Works for manufacturing and trading of machine, tools and scientific instruments in a plot in Industrial Area, Ambala Cantt allotted to the petitioner by HSIDC. The HSIDC has ordered the resumption of the said plot and the litigation is going on. Under the circumstances, there is every apprehension that the petitioner and his sons might have to vacate the premises in their possession. It has been further pleaded by the petitioner that neither he nor his sons have got any other non-residential accommodation in their possession where they could do their business nor any of them has vacated

any non-residential premises without any reasonable cause after the commencement of the Rent Act. Hence, this petition.”

3. The revision petitioner in his written reply contested the plea of landlord-respondent that he requires the demised premises for his bonafide need. He took the plea that business of trading in scientific goods has more scope in Ambala Cantt instead of Ambala City.

4. The pleadings of parties led to framing of following issues:

- (i) Whether the respondent is in arrears of rent as mentioned in the petition? OPP.
- (ii) Whether the suit property is required by petitioner for his bonafide need? OPP.
- (iii) Whether the respondent is liable to be evicted from the suit property on the grounds mentioned in the petition? OPP.
- (iv) Whether the petition is not maintainable in the present form? OPR.
- (v) Whether the petition is bad for non-joinder of necessary parties? OPR.
- (vi) Whether the petitioner has concealed the material facts from the court? OPR.
- (vii) Relief.

5. While recording finding on issue no.(ii) the Rent Controller observed that the demised premises is required for personal bonafide necessity of landlord-respondent and contention of the respondent that

business intended to be run by the petitioner in the demised shop has more scope in Ambala Cantt than in Ambala City, has no merit.

6. Not satisfied, the petitioner filed appeal which was dismissed by the Appellate Authority, Ambala.

7. Learned counsel for the petitioner has argued that the petition filed by respondent-landlord was bad for concealment of facts as they had not disclosed about their possession of shop no.24 situated in Housing Board Colony, Ambala. He further argues that ejectment of revision petitioner was sought on the ground that plot in Industrial Area, Ambala Cantt allotted to the petitioner by HSIDC, was being resumed but no evidence to this effect was produced, rather the proceedings regarding this plot have since been dropped. The premises, in which petitioner is doing business of scientific goods under the name and style of Paramount Scientific Works, has not been vacated so far.

8. The submission made by learned counsel for the petitioner has no substance. In para 17 of judgment the Appellate Authority has specifically observed that the litigation with regard to the plot allotted by HSIDC is pending. Regarding concealment of possession of shop no.24, the witness examined by the revision petitioner namely Om Parkash, Taxation Inspector had categorically stated that Vineet Kumar son of petitioner had no concern with the business being run in that premises under the name and style of M/s. Laboratory Equipment Unlimited. That business was being run by Bharat Bhushan son of Gyan Chand.

9. This argument of revision petitioner that in the ejectment petition filed by Rameshwar Dass, seeking ejectment of the respondent-landlord from the premises wherein he is carrying on his business under the name and style of 'Paramount Scientific Works', is no more relevant, as after the appeal of respondent-landlord was allowed by the Appellate Authority vide judgment dated 09.02.2010 revision petition has been filed by the landlord Rameshwar Dass which was pending.

10. It is ironical that respondent-landlord owns a shop, but is doing business in the tenanted shop. He is having litigation with his landlord who wants to eject him from tenanted premises. It is irrelevant whether he wins or loses in that litigation. Every person wants to have peace in his life. Instead of having litigation with landlord of his premises, he wishes to carry on his business in the shop owned by him. If the respondent has also opted to carry on his business in the shop owned by him, it is immaterial as to what will be the fate of the litigation he is having with the landlord of the shop in which he at this stage is carrying on business as a tenant. His wish and need is genuine and bonafide.

11. The object of Haryana Urban (Control of Rent and Eviction) Act is to control the increase of rent of certain building and rented land situated within the limits of urban areas and the eviction of tenants therefrom. The statement of object and reason as given under the Act reads as follows:

"Certain provisions of the existing law are not
conducive to harmonious landlord-tenant

relationship and also hamper rapid urban development. In order to remedy these defects and to entitle the tenants of the amenities of water supply electricity and sewerage, necessity of fresh legislation has been felt. Opportunity has also been taken to rationalise the basis of determination of fair rent and to provide for eviction of those tenants who construct their own houses in the urban area concerned sufficient for their requirements.”

12. The perusal of the statement of object and reason of framing the act was primarily to safeguard the interest of the tenant and to control the eviction of tenants, who carry on business in a tenanted premises. A harmonious balance has been drawn under ‘the Act’ while safeguarding the interest of a tenant and to protect the landlord as well where he need the tenanted premises for his personal bonafide necessity.

13. While referring to the litigation, the respondent-landlord was having with landlord of his tenanted premises, the appellate authority has observed as follows:

“It is apt to mention here that, admittedly, appeals filed by the petitioner against Rameshwar Dass were allowed by the then Appellate Authority vide judgments dated 9.2.2010 but the same were very much in the knowledge of the appellant as they were allowed before the conclusion of his evidence

before the learned Rent Controller. Moreover, Revision Petitions have been filed against the judgments of the then Appellate Authority, Ambala dated 9.2.2010 and the same are pending in the Hon'ble Punjab and Haryana High Court. Thus, when proceedings against the petitioner regarding his eviction at the instance of his landlord are pending before the Hon'ble Punjab and Haryana High Court, under such circumstances, there cannot be greater need and better proof of bonafide of the requirement of the landlord.”

14. Every person is supposed to be having required fore-sight to make advance arrangement of business premises, in the event of being ordered to vacate the tenanted premises in which he is carrying business and particularly when he owns a business premises, he can certainly seek vacation of the same for his need. Such a requirement of landlord is justified even if the landlord of his premises has not even initiated ejectment proceedings against him.

15. It is no more *res integra* that the landlord is the best judge of his requirement. He has prerogative to expand his business. In the instant case petitioner wish to start business in demised premises and also to settle his son in the business. It is his prime and moral duty to boost the income of his family, to settle his sons in business. In case of **Joginder Pal vs. Naval Kishore Behal** reported as *AIR 2002 SC 2256*, Hon'ble Supreme Court has

held that it is the moral obligation of the father to settle his son in business well and make him economically independent. Suitability of any premises for the need of the landlord is to be considered as per his convenience. Being master of his needs and he has the freedom to see as to how he is to utilize his property and the tenant lacks any authority to dictate the terms. In these circumstances the fact, as to whether the plot in industrial area, allotted to respondent/landlord is being resumed or not, fades in oblivion.

16. On perusal of the paper book and order/judgment of authorities under the Act, I find no legal or factual infirmity therein calling for any interference. This revision petition has no merits and is dismissed.

12th January, 2015
'raj'

(SURINDER GUPTA)
JUDGE