

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

CR No.1515 of 2015(O&M)

Date of Decision : 23.3.2015

Manoj Kumar Jain and another

.....Petitioners

Versus

Satpal Singh and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. P.C. Gupta, Advocate for the petitioners.

GURMIT RAM, J.

This revision petition is preferred by the petitioners-tenants against the judgment dated 14.10.2013 passed by the learned Rent Controller, Ambala vide which the ejectment petition of the respondent No.1-landlord was accepted and the judgment dated 15.1.2015 passed by the learned Appellate Authority, Ambala vide which the appeal of the petitioners-tenants (herein) preferred against the above said judgment dated 14.10.2013 was dismissed.

2. The case of the present respondent No.1-landlord before the learned Rent Controller in nutshell was as under:-

“That he is the owner and landlord of the demised premises bearing No.6188/2/2, Nicholson Road, Guru Nanak Marg, Ambala Cantt. The petitioners herein (tenants) took the demised premises on rent from the petitioner-landlord initially at the rate of Rs.350/- per month which was

enhanced from time to time. The respondents were paying rent @ Rs.650/- per month w.e.f. 1.4.2009. They did not pay this rent for the period from 1.4.2011 to 31.10.2011 amounting to Rs.4,550/-. It was the further case of the petitioner that he *bona fide* requires the demised premises for his married son Onkar Singh, who was assisting him at present at his shop situated in Saudagar Bazar, Ambala Cantt. His said son requires the demised premises *bona fide* for starting his independent business separately from him who at present is running the business of C&F of Hawkins Cookers Ltd. in a garage. The residence of the petitioner is on the first floor of the demised premises. He also owns a car which he is forced to park outside on the road since the garage is being used by his son. Apart from this garage, his son has no other premises for running his business independently. Even he has also filed a petition against one Shri Ram Parkash also who was occupying the adjoining shop since his son would be requiring more accommodation-extra space for running his business independently as well as for keeping the stock of pressure cookers. Except the demised premises, the petitioner and his son are not having any other non-residential building sufficient for the requirement of his son in the urban area. Hence, the instant ejectment petition was filed.”

3. On notice respondents No.1 and 3 (petitioners herein) appeared and filed written statement taking the plea that Onkar Singh son

of the petitioner is already running independent business of C&F of Hawkins Cookers Ltd. It is denied that the petitioner requires the demised premises for running the business of his son independently. It is also denied that son of the petitioner is running the said business in the garage, rather he is doing the same in a store which space is sufficient in order to enable him either to run the business or expand the same as he would like. The cars in the concerned locality are usually parked outside. Rest of the averments were also denied by the respondents.

4. Arrears of rent as assessed by the learned Rent Controller were tendered by the respondents and the same were accepted by the petitioners. Only one issue was framed that 'as to whether the respondents are liable to be ejected from the demised premises'.

5. Learned Rent Controller after hearing the learned counsel for the parties and going through the records, recorded finding on the said issue in favour of the petitioner-landlord on the plea that demised premises is required by the petitioner for his son Onkar Singh in order to enable him to run his business independently separate from him vide the impugned judgment dated 14.10.2013.

6. Feeling aggrieved from this judgment, the respondents-tenants preferred an appeal before the learned Appellate Authority, Ambala, which was dismissed.

7. Being dissatisfied with the findings of both the Courts below, the present petitioners-tenants have come up before this Court by way of the instant revision petition.

8. I have heard the learned counsel for the petitioners-

tenants and have also perused the record as available on the file.

9. The learned counsel for the petitioners-tenants has contended that the impugned judgments rendered by both the Courts below are not sustainable in the eyes of law being against the law on the point and facts on the file. It is further his contention that plea taken by the respondent No.1-landlord in this case is inconsistent since on the one hand he is alleging that his son Onkar Singh is assisting him at his shop situated in Saudagar Bazar, Ambala Cantt. and whereas on the other hand he is alleging that his said son is running his own business of C&F of Hawkins Cookers Ltd. in a portion of the demised building. Then it is further his contention that his said son Onkar Singh is already doing his above-said business independently from respondent No.1/landlord (petitioner) on the ground floor of the demised building and as such the plea of the respondent No.1-landlord that he requires the demised premises for the business of his son is not justifiable. Then it is further his contention that in para No.9 of the judgment, the learned Rent Controller has held that the petitioner requires the demised premises for further expansion of business of his son which is incorrect being beyond the pleadings. Then he has further pointed out that in para No.12 of the judgment, the learned Rent Controller has held that son of the landlord is not having sufficient space to store sanitary goods, which is also wrong being beyond the pleadings. Then it is further his contention that Onkar Singh son of the respondent No.1-landlord (petitioner) has not appeared in the witness-box to prove the fact that his alleged requirement of the demised premises is *bona fide* one.

10. As per record it is the case of the respondent No.1-landlord (petitioner) that his son is running business of C&F of Hawkins Cookers Ltd. in the garage of the demised house. If he is running his said business, then that does not mean that he cannot help his father in the shop situated in Saudagar Bazar, Ambala Cantt. where his father is doing his business. Then it is specific plea of the respondent No.1-landlord that he requires the demised premises for running the business of his son independently separate from him and also for its expansion. Even it is also found mentioned in the judgment of the learned Rent Controller that petitioner has also filed a petition against another tenant Shri Ram Parkash for making available sufficient space for the business of his son and its expansion as well. Then it is also the case of the petitioner-landlord that his son is not having space for keeping the stock of pressure cookers. So the above contention of learned counsel for the petitioners-tenants that the learned Rent Controller has given wrong findings in para No.9 of his judgment is also held to be incorrect. The finding of the learned Rent Controller in para No.9 of the judgment as pointed out above by the learned counsel for the petitioners-tenants is held to be absolutely correct. But the observations made by the learned Rent Controller that existing shop with the landlord's son is not sufficient to store sanitary goods is held to be wrong being against the record. Though, as per the record, the fact is that the son of the respondent No.1-landlord requires the space for keeping the stock of the pressure cookers, expansion of his business etc. If his son has not stepped into the witness-box, then it also does not make any difference as his statement was to be

on the same line as that of his father.

11. Then there is a plea of the petitioners-tenants that the respondent No.1-landlord has got vacated some other shop which is rented out by him on higher rents, but there is no evidence on the record in support of his this plea.

In the light of the above discussion, the above contentions of the learned counsel for the petitioners-tenants are held to be not tenable. There is nothing found wrong on record to say that the impugned judgments passed by both the Courts below are either perverse or against the law and the facts on the file.

12. The case law **Suresh Kumar Versus Nathu Ram and others 2013 (1) HLR 108(P&H)** has rightly been applied by the learned Appellate Authority in this case since in that case also there was specific plea of the landlord that he required the demised premises for the expansion of the business of his son.

13. Learned counsel for the petitioners-tenants has further pointed out that the alleged requirement of the respondent No.1-landlord in this case is mere a wish lacking element of *bona fide* need and as such, this petition is liable to be dismissed. In order to support his contention he has placed reliance upon **Mangat Ram Versus Om Parkash and another, 1983(2) R.C.R.(Rent) 297 (P&H)**. But this case law does not hold good at present because after the passing of it, there are several authorities of our own High Court as well as of the Hon'ble Supreme Court holding that the landlord is the best judge to see as to which accommodation is suitable and adequate for his living/business as well as for the members of

his family and the same are discussed in detail by the learned Appellate Authority in para No.11 of the impugned judgment dated 15.1.2015.

14. In view of the above discussion, this revision petition being meritless stands dismissed and disposed of accordingly. Both the impugned judgments are held to be correct and affirmed accordingly.

Since the main revision petition has been disposed of, the miscellaneous application, if any, also stands automatically disposed of having been rendered infructuous.

23.3.2015
Brij

(GURMIT RAM)
JUDGE

1. To be referred to the Reporters or not? Yes/No
2. Whether the judgment should be reported in the Digest? Yes/No