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

CR No.1270 of 2014 (O&M)

Date of decision: March 13, 2015

Smt. Kuljit Kaur and another

.....Petitioners

Versus

Sh. Som Nath Khurana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Jagdish Manchanda, Advocate
for the petitioners.

SABINA, J

Petitioners had sought ejectment of the respondents from the premises in question on the ground of personal necessity.

Case of the petitioners in brief was that Shiv Charan Singh was the owner/land lord of the demised premises and had let out the same to respondent Madan Lal Khurana in the year 1977 at a monthly rent of ₹325/- excluding of water and electricity charges. Shiv Charan Singh died in the year 1980 and thereafter, petitioners became joint owners/land lord of the demised premises. Petitioner Manjit Singh was running his business at Manimajra and his two sons Harpreet Singh and Paramjot Singh were settled in business, whereas his third son Parvinder Singh was still unsettled. Hence, the demised premises was required by the petitioners to enable them to settle Parvinder Singh to run his business in the demised premises.

The case of the respondents was that Parvinder Singh was running his business in Shop “Guru Nanak Auto Traders” at Manimajra. Petitioners were also having other property in Chandigarh. The Rent Controller vide order dated 15.06.2009 dismissed the ejectment petition and the said order was upheld by the Appellate authority vide order dated 04.07.2013. Hence, the present petition.

I have heard learned counsel for the petitioners and have gone through the record available on the file carefully.

Learned Rent Controller in Para 16 of the judgment has observed as under:-

“16. A perusal of the testimony as well as documents brought on record reveals that Manjit Singh Loomba stepped into the witness box as PW-1 and he had deposed that he required the demised premises for setting his son Parvinder Singh independently. Harpreet Singh, Parvinder Singh are helping his brother Paramjot Singh in the business under the name & style of Bombay Collections, SCF No.9, Manimajra, Chandigarh. His other son Harpreet Singh is looking after his business in the name of Guru Nanak Auto Traders, Manimajra. PW-2 has admitted in his examination-in-Chief that he is helping his brother Paramjot Singh and his father Manjit Singh Loomba in their respective business. The testimony of Parvinder Singh (PW-2) reveals that he also admitted that he is an income tax assessee, getting a salary of Rs.4500/- from his father besides having other source of income. He admitted that he gets profit in the business from Guruk Nanak Auto Traders and there is no partnership deed between him and his brother. During his cross

examination, he admitted that he was getting an amount of Rs.60,000/- per month as salary from his own firm i.e. Guru Nanak Auto Traders. The said testimony of PW-2 means it crystal clear that he is running Guru Nanak Auto Traders in the capacity of the owner of the said shop. He has also admitted that he had made investments in his own shop i.e. Guru Nanak Auto Traders and is receiving an interest amount of Rs.2-3 lacs yearly from the said investment. PW-1 in his cross examination admitted that he had given a publication (Ex.DA) published in Hindi Newspaper containing that Harpreet Singh & Parvinder Singh are running the shop in the name & style of Guru Nanak Auto Traders. Further, Ex.DA also contains that his wife is running a garment shop in the name of Bombay Collections with his son Paramjot Singh. Learned counsel for the respondent has submitted that the present rent petition has not been signed by all the petitioners. However, the petitioner has admitted that he has taken the consent of the other petitioners before filing of the present petition. Further, there is no bar that a person named as a co-plaintiff is not to be treated as plaintiff unless he signs and verify the plaint.”

The Appellate authority in Paras 23 and 24 of the judgment has held as under:-

“23. The petition has been filed by the landlords for alleged bonafide requirement of son of landlord no.3 Manjit Singh Loomba only. His cross-examination would reveal that he is running Guru Nanak Auto Traders in shop no.337, Manimajra, Chandigarh and there is another shop owned by him i.e. shop no.598, Manimajra, Chandigarh which is lying vacant. Still further, in his cross-examination, he stated that except

the first and second floor of commercial premises, no.337, no other premises owned by him or of his family members were lying vacant, but his son-PW-2 Parvinder Singh candidly admitted that his father owned booth no.263 and plot no.258, Industrial Area, Phase-1, Chanidgarh, through he volunteered to state that they had now sold the properties. He also admitted that ground floor of SCF no.597-98 was lying vacant. He further stated that SCF No.9-10 was in the name of his father where cloth material was lying. The landlords' pleadings are silent regarding their ownership of SCF no.9-10, SCF no.597-98, Manimajra, Chandigarh. PW-2 admitted that his father did not disclose properties which were owned by him. He admitted that booth no.79, Motor Market, Manimajra, Chandigarh was owned and possessed by his father and was lying vacant. Thus, it is evident from the admission in cross-examination that the landlords have not been fair in the pleadings or evidence. The landlords not only admitted to plead the mandatory requirement of Section 13(3) (a) (i) of the Act, they also suppressed material facts on account of which they cannot seek assistance of the court for seeking eviction of the tenant. There is a deliberate attempt on part of the landlords to suppress material facts of ownership and possession of other commercial properties in Chandigarh by not pleading the mandatory ingredients which has specifically prejudiced the tenant. It was obligatory for the landlords to mention all the premises owned by them and in their possession in the urban area of Chandigarh and further to plead that the premises already in their possession are insufficient for the requirement. In the absence of such pleadings, their bonafides are in doubt and they would not be entitled to eviction. Even when landlord no.3 stepped

into the witness box as PW-1, he did not make an attempt to furnish the details of his properties in his examination-in-chief and it was only in cross-examination that the opposite side was able to dig out the truth. The landlord made no attempt to explain the inadequacy of his properties which he owned and possessed. He has not come with clean hands and is not entitled to evict the tenant. Reference here may be made to Shankar Lal Vs. Madan Lal & Ors. 2011 (1) RCR (Rent) 139 (P&H) and Kishan Chand Vs. Jagdish Parshad & ors. 2002 (1) Rent LR 20 (SC).

24. This apart, the bonafides of the landlords so far as personal necessity of son of landlord no.3 namely Parvinder Singh is concerned, is also on a shaky ground. The landlord (PW-1), in cross-examination, admitted that 5-6 months before the filing of petition, Madan Mohan was requested by landlord no.1 to vacate the premises on account of personal necessity of son of landlord no.2. It is not the case of the landlords that the shop in question was required for personal necessity of son of landlord no.2 rather the projected need is that of Parvinder Singh, son of landlord no.3, who the landlords want to settle independently in business. Landlord no.3 Manjit Singh Loomba has stated in his cross-examination that his son Parvinder Singh was employed in his firm Guru Nanak Auto Traders and was getting Rs.4000/- per month and Parvinder Singh helped his son Harpreet Singh in the business. Parvinder Singh PW-2, however, admitted that income from his own firm Guru Nanak Auto Traders was Rs.65000/- per month. Evidently, Parvinder Singh is independently settled in business and is earning handsomely, so, his projected need does not appear to be bonafide. There can be no

dispute with the judgments cited by learned counsel for the landlords at bar, however, in the peculiar facts of the case, none of them come to the rescue of the landlords.”

Thus, the Courts below had rightly dismissed the ejectment petition filed by the petitioners as it was duly established on record that Parvinder Singh was already running his business, therefore, the plea taken by the petitioners that the premises in question was required to settle Parvinder Singh, was not duly established. Further, the petitioners were having other property, but the details of the same had not been furnished by the petitioners. It was only during cross-examination of the witnesses examined by the petitioners that it transpired that they owned other property in Chandigarh. In the facts and circumstances of the present case, both the courts below have rightly held that the ejectment petition filed by the petitioners was liable to be dismissed.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

March 13, 2015
m.singh