

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

CR No.1994 of 2015(O&M)

Date of Decision : 20.3.2015

Jagjit Singh Kohli and another

.....Petitioners

Versus

City Mission Hospital

.....Respondent

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. Atul Jain, Advocate for the petitioners.

GURMIT RAM, J.

This revision petition is preferred by the petitioners-tenants Jagjit Singh Kohli and another against the judgment dated 10.3.2014 passed by the learned Rent Controller, Patiala vide which ejectment petition of the respondent-landlord for the ejectment of the petitioners-tenants from the demised premises was accepted and the judgment dated 7.1.2015 passed by the learned Appellate Authority, Patiala vide which the appeal of the petitioner-tenants preferred against the above said judgment dated 10.3.2014 passed by the learned Rent Controller was dismissed.

2. The case of the petitioner (herein respondent-landlord) before the learned Rent Controller in nutshell was as under:-

“The petitioner-hospital is a charitable trust being run on 'No profit No loss basis'. It was established by Harnam Singh Sahni , Charitable Trust, Patiala in the memory of Harnam Singh Sahni, who expired in young age. The building in

which the petitioner-hospital is being run was previously owned by Gurdeep Singh which is now owned by Smt. Rajinder Kaur wife of Kuldip Singh Sahni. The entire ground floor of the building bearing No.265/1, Sher-E-Punjab Market, Patiala including the demised premises was previously given to the petitioner by Gurdeep Singh and after the transfer of the property, the said Smt. Rajinder Kaur has also consented the user of the building by the petitioner. After renovation of the premises, the same was rented out to the respondents @ Rs.12,000/- per month with the condition to enhance the same @ 5% per annum of last years rent. Besides this, the house tax was also to be payable by the respondents. It was the further case of petitioner that in order to augment the medical and diagnostic facilities to the public at large, the medical facilities such as ultrasound and digital x-ray are to be provided and the existing physiotherapy facilities are also to be expanded. The petitioner could not execute its above-said plans to enhance the medical facilities etc. due to insufficient accommodation. There is no other space in the building to enhance/expand the above said facilities except the demised premises. The petitioner required the demised premises for its own use and occupation as above said, which necessitated to file the instant ejectment petition.”

3. On notice, respondents (petitioners herein) appeared.

In the reply they denied that petitioner is a charitable hospital being run on 'No profit No loss basis'. It was also denied that Dr. Gurdeep Singh Sahni is the Chairman of the petitioner-trust. It was further plea of the respondents that Smt. Rajinder Kaur is the owner in possession of the property No.265, Mohalla Bibrian, near Mohalla Soodan Wala, Sher-E-Punjab Market, Patiala measuring 325 sq. yards. She agreed to sell this property to one Balbir Singh @ Rs.35,000/- per sq. yard vide an agreement to sell dated 11.10.2010. A sum of Rs.10 lacs was paid as earnest money and the sale deed was to be executed up to 11.6.2011, which was not executed as the said Smt. Rajinder Kaur had refused to execute the same. It was also denied that the entire ground floor of the above-said building including the demised premises was given to the petitioner previously by S. Gurdeep Singh or that demised premises was rented out to the respondents @ Rs.12,000/- per month or that the respondents had agreed to enhance the rent @ 5% per annum as alleged in the petition. It was further their case that when the demised shop was let out to them it was to be renovated by them at their own costs, since it was not fit for running a show-room and for this purpose the respondents changed the flooring of the entire shop with Granite/vitrified tiles, provided the front gate with toughed glass with an iron shutter, false ceiling was also got erected with modern concealed electrification. Besides this on all the walls wooden paneling work had been got done and furnished it with modern furniture. Further two air conditioners were also got fitted and electric load was also got enhanced and thus the respondents spent about Rs.9 lacs for the above-said entire renovation

and up-gradation of the demised shop. It was done with the consent of the landlord and the respondents are entitled to this amount from the petitioner-landlord. It was also denied that demised shop is required by the petitioner for its personal use and occupation. Rather it was pleaded that this petition has been filed just to harass the respondents.

4. Learned Rent Controller after hearing the learned counsel for the parties and going through the records, recorded findings on all the issues in favour of the petitioner-landlord and accepted the petition filed for the ejectment of the respondent-tenants from the demised shop vide impugned judgment dated 10.3.2014.

5. Feeling aggrieved from this judgment, the petitioners-tenants preferred an appeal before the learned Appellate Authority, Patiala, which was dismissed vide judgment dated 7.1.2015.

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

7. I have heard the learned counsel for the petitioners-tenants and have also perused the records as available on the file.

8. The learned counsel for the petitioners-tenants has contended that the findings recorded by both the Courts below are wrong as well as illegal and hence not sustainable in the eyes of law. He has firstly argued that on the date of filing of the petition Dr.Gurdeep Singh Sahni was neither the owner nor landlord of the demised premises and as such he was unable to file the eviction petition on the ground of personal necessity, but both the Courts below have failed to take note of this fact

while passing the impugned judgments. Then it is further his contention that as per the case of the respondent-landlord, the City Mission Hospital is a registered body duly registered with Sub-Registrar, Patiala. Such like a registered body can sue or be sued through an authorized person. In the case in hand no resolution has been passed by the said City Mission Hospital therein authorizing Dr. Gurdeep Singh to file the instant ejectment petition.

9. As per the records, the learned Rent Controller in para No.10 of his judgment has recorded that earlier the demised premises was taken on rent by the respondent from Gurdeep Singh and after that the property was purchased by Smt. Rajinder Kaur wife of Kuldip Singh. This Smt. Rajinder Kaur is none else but the mother of said Gurdeep Singh who is the Chairman of the petitioner-hospital. Then in para No.19 of the impugned judgment of learned Rent Controller, it has been recorded that in answer to a suggestion put to AW1 Gurdeep Singh Sahni, he had replied that it is correct that the tenant is paying the rent regularly. Then in para No.9 of the impugned judgment of the learned Appellate Authority, Patiala, it is mentioned that Jagjit Singh – respondent has admitted his signatures on original deed of rent agreement which was exhibited as Ex.RX. A bare perusal of this rent agreement manifests that it was executed between Jagjit Singh Kohli and City Mission Hospital through its Chairman Dr. Gurdeep Singh Sahni. Then in this para it is also observed that the appellant (Jagjit Singh Kohli) admitted that he had paid the rent w.e.f. 1.5.2011 to 30.4.2012 to the petitioner/landlord. So this much evidence is sufficient to prove that there exists relationship of

landlord and tenant between the parties.

10. The instant petition for the ejectment of the tenants from the demised premises was filed under Section 13 of the East Punjab Urban Rent Restriction Act. As per Section 13(3)(a) of the said Act, a landlord may apply to the Controller for an order directing the tenant to put the landlord in possession in case of residential building, if he requires it for his own use and occupation. So as per the provision of this section, the landlord can maintain a petition for the ejectment of the tenant from the demised premises on the ground of personal necessity. It is not required that such a landlord should be the owner of the demised property qua which he is seeking eviction of the tenant therefrom. So as such petition filed by the respondent-landlord for the eviction of the petitioner-tenants from the demised premises is held to be maintainable.

11. The instant petition of ejectment as per the records was filed by Dr.Gurdeep Singh Sahni as a Chairman of City Mission Hospital. A Chairman of such like institute is very much authorized to file such like petition. The authorization to file such like petition is required if the same is to be filed by any Member/Trustee of the trust other than the Chairman. Then as above-said the rent agreement Ex.RX was executed between Jagjit Singh Kohli (respondent) and the petitioner-hospital through its Chairman Dr. Gurdeep Singh Sahni. Then it is also recorded in the rent agreement that the City Mission Hospital was established in the year 2000 in the memory of S.Harnam Singh Sahni. So as such the above-said contention of the learned counsel for the petitioners-tenants is held to be not tenable and the same is declined.

12. Regarding the alleged personal necessity of respondent-landlord of the demised premises, it has been contended by the learned counsel for the petitioners (tenants) that Smt. Rajinder Kaur who was allegedly had become the owner of the building of which the demised premises is a part had wanted to sell the same vide an agreement of sale dated 11.10.2010. But it is their own case of the petitioner-tenants that no sale deed was ultimately executed on the basis of this agreement to sell since Smt. Rajinder Kaur refused to execute the same. The contention of the learned counsel for the petitioner-tenants in brief on this point is that the respondent-landlord does not require the demised premises for their own use and occupation *bona fide*ly. But the petitioners-tenants did not bring on the record any convincing and reliable evidence to establish their said plea. So, the plea of the petitioners-tenants that Smt. Rajinder Kaur wanted to sell out the demised premises after getting it vacated from petitioner-tenants is not substantiated on the record for want of proper and reliable evidence in support of it.

13. On the other hand, in order to establish the fact that the respondent-landlord requires the demised premises for their own use for expansion of the medical facilities as mentioned in the petition, the respondent-landlord examined Dr.Gurdeep Singh, Chairman as AW1. He brought on the record his duly sworn affidavit Ex.AW1/A incorporating all the facts as mentioned in the petition. Further he also placed on record various material documents such as copy of trust deed dated 4.7.2001(Ex.A1), site plan (Ex.A2), copies of two cheques (Ex.A3 and A4), statement of account (Ex.A5), certificate of debit entries (Ex.A6) and

another site-plan (Ex.A7).

AW2 S. Kudlip Singh Sahni in his duly sworn affidavit Ex.AW2/A also corroborated the version of the petitioner to the effect that the demised premises is required by the petitioner-hospital for the expansion of medical facilities and to provide the facility of ultrasound and x-ray to the public at large.

AW3 Dr. Nigam Kumar is employed as a doctor in the petitioner-hospital. He brought on record his duly sworn affidavit Ex.AW3/A stating therein about the medical faculties employed in the petitioner-hospital. Then he also stated the fact that petitioner-hospital has decided to provide ultrasound and digital x-ray facilities on concessional rates, with a view to help the poor and needy persons.

AW4 Sachdev Vij is an Advocate who tendered in his statement his duly sworn affidavit Ex.AW4/A to the effect that due to rush of patients in the hospital, the accommodation available with the petitioner-hospital is insufficient. Patients are not being attended for ultrasound and digital x-ray since the said facilities are not available in the premises of the petitioner-hospital.

Then Ex.A7 is the proposed site-plan of the respondent-landlord for utilizing the demised premises for establishing of ultrasound and digital x-ray facility.

14. On the other hand, in the rebuttal only petitioner-tenant (respondent therein) appeared in the witness box as RW1. His statement is not up to the mark to hold that the demised premises is not required by the respondent-landlord for the expansion of the medical

facilities or that the instant petition has been filed by the petitioner/landlord just to harass the respondent-tenant as alleged in the written statement.

15. Law regarding the personal necessity of the landlord qua the demised premises is that the landlord is the best judge to see as to which accommodation is suitable for his use and occupation. The tenant is no body to dictate him any term or to suggest him any alternative other than the case as set up by the petitioner-landlord. The duty of the Rent Controller is only to see as to whether the alleged personal necessity qua the use and occupation of the demised premises on the part of the petitioner-landlord is *bona fide* one or not. In the case in hand, the alleged requirement of the demised premises by the landlord is containing an element of need. Then it is also an admitted fact that the demised shop is situated in the same building in which the petitioner-hospital is being run at present and as such on this account also, the demised premises is found to be most suitable for the petitioner for the expansion of the medical facilities such as ultrasound and digital x-ray and also for the expansion of existing physiotherapy facilities.

16. In the light of the above discussion, the instant revision petition is held to be devoid of any merit. So, it stands dismissed and disposed of accordingly. Both the impugned judgments are held to be correct and affirmed accordingly.

20.3.2015

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