

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 2142 of 2013

Date of Decision: June 30, 2015

Hans Raj

.....Petitioner

Vs.

Amarjit Kaur

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Saurabh Garg, Advocate
for the petitioner.

Mr. Gurmeet Singh, Advocate
for the respondent.

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M.M.S. BEDI, J. (ORAL)

This is tenant's revision petition against the order of ejectment passed by the Rent Controller and the Appellate Authority holding that the land-lady/ respondent bonafide requires the shop in dispute.

Learned counsel for the petitioner has vehemently contended that the landlady- respondent has not disclosed in her ejectment application that she is owner of another shop constructed in Khasra No. 54 rect. 22/3/1 and that she having not specifically pleaded and proved the necessary three

ingredients under Section 13 (3) (a) (i) of the East Punjab Urban Rent Restriction Act, for short 'the Act', the Courts below have acted illegally in passing ejectment order from the shop in dispute. He has placed reliance on the judgment of **Banke Ram Vs. Shrimati Sarasvati Devi**, 1977 (1) RCR (Rent) 595 in support of his contention that the conditions laid down in Section 13 (3) (a) (i) (b) & (c) of the Act are required to be pleaded and proved before eviction order on the ground of bonafide need of the landlord is passed.

I have heard learned counsel for the petitioner and with his assistance gone through the written statement of the tenant- petitioner in which the tenant has taken up the following plea in para 4 (b) of the written statement:-

“4 (b) That this sub para of the petition is wrong and denied. The petitioner has not started any business of commission agent as alleged in this para. The petitioner has other shop in the same locality in her name. **Hence the respondent cannot be ejected from the shop on this ground.....**”

In view of the above said pleadings, I have considered the contention of learned counsel for the tenant- petitioner. In **Banke Ram's** case (supra) in para 9 of the judgment, it was observed as follows:-

“One of the main objects of the Act is to protect the tenant from the caprice and whim of the landlord to eject him without any valid and sufficient reason. It has been specifically provided under Section 13 (1) that a tenant will not be ejected except in accordance with the

conditions laid down in sub-sections (2) and (3). The landlord has been injuncted from evicting the tenant even on the ground of the need of his own occupation unless two other conditions provided in sub-clauses (b) and (c) are also fulfilled. The fulfilment of the conditions is a pre-requisite for any order of ejectment. If this objective is to be achieved, it is essential that both landlord and tenant must state all the facts specifically and expressly in their pleadings before they enter on evidence. In its absence, the proceedings will be a fertile source of objections that the tenant was taken by surprise because the landlord had not made specific averments in his pleadings and the objection by the landlord that the tenant had not raised specific objection in his reply. In a large number of cases, it has been seen that after a long time, the Appellate Authority or the High Court, are required to deal with the question whether amendment of the pleadings by the landlord should be allowed or not. This results in unnecessary prolonged litigation and avoidable burden of expenditure consequent thereto. Such a course is neither in the interest of the landlord nor the tenant. The interest of speedy justice makes it imperative that both the landlord and the tenant must be absolutely clear in their minds from their respective pleadings as to what case is required to be proved by the landlord and rebutted by the tenant. Viewed from any angle, there is no escape from the conclusion that the landlord must make specific averments in regard to the ingredients contained in sub-clauses (b) and (c). In my considered opinion, the judgment of the Division Bench in Krishan Lal Seth's case (1961-63 Pun LR 865) (supra)

so far as it lays down that it is not necessary for the landlord to plead the ingredients of sub-clauses (b) and (c) in the pleadings does not lay down good law and the same is reversed.”

A perusal of the above said observations of the Full Bench clearly depicts that it is made imperative for both landlord and tenant that they must be absolutely clear in their mind about their respective pleadings as to what case was to be proved by the landlord and rebutted by the tenant. It was required of the tenant in view of principles of Order 8 Rule 2 CPC to specifically plead all matters to show that the ejectment petition was not maintainable. The details of any other shop owned or possessed by the landlady should have been mentioned in the written statement. Even otherwise, the landlord is the best judge of his needs. The tenant cannot impose his wish on the landlord that he or she should choose a particular premises avoiding to seek ejectment in his possession and to seek ejectment regarding the other shop.

In view of the above said circumstances, the Courts below have not committed any error in accepting the ground of personal necessity of the landlady.

I have also considered the contention of learned counsel for the petitioner that the licence obtained by the respondent is in the name of Amrit Kaur whereas the name of landlady is Amarjit Kaur. The plea that she is not permitted to run the business of commission agency in the shop in dispute cannot be appreciated at this stage as the said plea was neither taken up in

the pleadings nor substantiated by any evidence produced on the record. No ground is made out for interference in the concurrent finding of fact regarding the bonafide need of the landlord- respondent.

The petition is dismissed. However, taking into consideration the fact that the petitioner has been in possession of the shop for the last about 20 years, a period of four months is granted to him to vacate the premises and handover the vacant possession to the landlady- respondent.

This order will not prejudice the rights of the parties to enter into any amicable settlement regarding the period for vacation of the shop in case petitioner is ready to furnish an undertaking in the shape of affidavit before the Rent Controller that he will not cause any damage to the building before vacation.

June 30, 2015
sanjay

(M.M.S.BEDI)
JUDGE