

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

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**Civil Revision No.3277 of 2015 (O & M)
Date of Decision:19.08.2015**

Swaran Kaur and otherspetitioners

Versus

Bakhshish Kaur through LRsrespondents

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CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Ramandeep Singh, Advocate for
Mr.R.S.Bajaj, Advocate
for the petitioners

ARUN PALLI, J.(ORAL):-

Vide order being assailed dated 13.03.2013, rendered by Rent Controller, Jalandhar, petitioners were ordered to be evicted from the demised premises i.e.two shops and a chabara on the first floor. Appeal preferred against the order of eviction failed and was dismissed vide judgement dated 04.02.2013. This is how the petitioners-tenants are before this Court.

In an eviction petition filed by the respondent-landlord, ejectment of the tenants was sought on account of non-payment of rent w.e.f.January 1996, @ ₹ 1300/- per month i.e. ₹ 500/- per month

for each shop and ₹ 300/- per month for a chabara on the first floor, on account of personal necessity and as the premises had become unfit and unsafe for human habitation.

In the written statement filed by the tenants, it was pleaded that there was no relationship of landlord and tenant between the parties. In fact, petitioners were the tenants under Sarabjit Singh and Surinderjit Singh, grandsons of Bhagwant Singh, i.e. original landlord, who inducted Darshan Singh, husband of respondent No.1 and father of respondents No.2 and 3. The suit property was let out, initially, at a monthly rent of ₹ 3/- per month in the year 1952. However, subsequently, the rent was enhanced to ₹ 75/-. Respondents had earlier been paying rent to Bhagwan Singh and post his death to Sarabjit Singh and Surinderjit Singh. The alleged need of the respondent that she required the demised premises for her personal use and occupation, was denied as she purportedly possessed many other properties in the same urban area.

On a consideration of the matter in issue, the learned Rent Controller arrived at a conclusion that in the wake of the judgment Ex.P25, that has attained finality, respondent was indeed the owner and landlord of the demised premises qua the petitioners. That being so, issue No.1 was decided in favour of the respondent. As regards the non payment of rent, it was concluded that the rate of rent of the premises was proved to be ₹1300/- per month and as the petitioners had tendered rent @ ₹ 150/- per month, the tender was short. However, after adjustment of provisional rent, tendered by the

petitioners, the arrears were ordered to be deposited within a period of two months from the date of the order i.e.13.03.2013. The eviction petition was filed by Smt.Bakshish Kaur, who died during the pendency of the proceedings before the Rent Controller. Consequently, it was concluded that as the need of the landlord was exclusively for herself, the very ground, to seek eviction of the tenants, had become non-existent. Accordingly, issue No.4 was decided in favour of the petitioner-tenant and against the respondents. In reference to the report (Ex.P2) of the building expert i.e.Keshav Soni (PW1), it was held that the building in question had indeed become unfit and unsafe for human habitation. Accordingly, the eviction petition was accepted.

Being aggrieved against the order of eviction dated 13.03.2013, parties to the lis preferred two separate appeals. Appellate authority reviewed the matter in issue, evidence on record and on an analysis thereof, found itself in concurrence with the view drawn by the Rent Controller and thus, dismissed the appeal of the petitioners. However, an appeal preferred by respondent-landlord was accepted and finding as regards personal necessity was reversed and even issue No.4 was decided in favour of the respondent-landlord. This is how, the petitioners have preferred these two petitions that are being disposed of by a common order.

I have heard learned counsel for the petitioners and perused the record.

Learned counsel for the petitioners simply seeks to reiterate the submissions that were advanced before the Courts

below and were rejected after a due and thoughtful consideration. All what he has urged is that the eviction petition was filed by Smt.Bakshish Kaur for her exclusive personal need/requirement and not for her family as well. And since she died during the pendency of the proceedings, the very ground to seek eviction on account of personal bona fide need became non-existent. The legal representatives of Bakhshish Kaur did not seek any amendment, post her death, to plead their own personal need. Therefore, the appellate authority erred in reversing the finding recorded by the Rent Controller.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the revision petition is devoid of merit and is, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Concededly, in a lis between the parties, in a suit for injunction filed by the respondent, vide judgement and decree dated 06.06.2008 (Ex.P25), it was concluded by the Civil Judge (Jr.Divn.), Jalandhar, that the respondent was indeed the owner as also the landlord qua the petitioners in the demised premises. Once the said decree had attained finality, petitioners cannot dispute the relationship of a landlord and tenant between the parties. The testimony of Mukhtiar Singh-PW4, fully corroborated the version of the respondent that the rate of rent of the demised premises was indeed ₹ 1300/- per month contrary to ₹ 150/- as was being claimed by the petitioners. Accordingly, learned Rent Controller while accepting the eviction petition vide order dated 13.03.2013, granted

an opportunity to the petitioners to deposit the arrears after adjusting the provisional rent. Concededly, the petitioners never deposited the arrears. Respondent examined building expert namely Keshav Soni (PW1), who visited the spot and submitted a comprehensive report (Ex.P2). He tendered in evidence photographs of the property as Ex.P3 to Ex.P16 and the rough site plan Ex.P17. As concluded by both the Courts below, an analysis of these documents proved that the building in question was about 100 years old and was in a dilapidated condition, something, which could be seen from a bare look of the photographs Ex.P3 to P16. And these photographs were never objected to by the petitioner-tenants. Further, the report (Ex.P2) revealed that the plinth level of the rooms was below the level of the courtyard and the walls of the demised premises had already twisted and, resultantly, the roof could fall any moment. Manmohan Singh (PW3) testified in his statement that the adjacent property owned by Smt.Surjit Kaur had also fallen vacant on the same ground as even the said building had become unfit and unsafe for human habitation. Concededly, the petitioners did not examine any expert in rebuttal to prove that the premises was indeed safe for human habitation. Nothing could be pointed out as to how the conclusions that have concurrently been recorded by the Courts below, were either contrary to the position on record or erroneous in law. No doubt, learned Rent Controller, decided issue No.4 as regards the personal necessity against the respondent and the finding was reversed by the appellate authority in an appeal but in the wake of the fact that eviction of the petitioners-tenants has been

ordered and is sustained on account of other two grounds i.e. non payment of rent and premises having become unfit and unsafe for human habitation, the finding viz-a-viz issue No.4 i.e. personal necessity need not be examined and is kept open.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law, to interfere, in exercise of revisional jurisdiction, with order of eviction as also the judgment dated 04.02.2013. The petition being devoid of merit is accordingly dismissed.

19.08.2015

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(ARUN PALLI)
JUDGE