

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

Civil Revision No. 375 of 2015 (O&M)

Date of Decision: January 16, 2015.

Harbhajan Singh

..... Petitioner

Vs.

Sheela

.... Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Surinder Gupta, J

Sheela respondent-landlord filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, seeking ejectment of revision petitioner (tenant) from the shop situated at Ghurali Gate, within the municipal limits of Gurdaspur, as fully described in the head note, on the ground of personal bona-fide necessity and arrears of rent. She described her personal bona-fide necessity in the petition as follows :-

“(a) That the applicant bonafide requires the shop in dispute for her personal use and occupation. The applicant wants to start business in the shop in dispute along with her grand son Laghav who is unemployed and both will help each other in the business to be started in the shop in dispute. The said Laghav who is unemployed and there is no scope of his employment during these days and as such, he will join the applicant in the business. The applicant shall also raise the construction for her residence as well as that of Laghav, as both applicant and Laghav are dependent on each other, on the first floor of the shop in dispute. The applicant is having only grand son to look after her. It is also added that earlier applicant shifted to Chandigarh where his only son Rajesh fell

ill and remained on bed for a continuous period of 3 years and all her earning and savings were spent on the treatment of her son Rajesh. The applicant was living in a room at Mohali on rent to look after her son Rajesh who could not survive and died because of illness. Now the applicant wants to shift to Gurdaspur to run business in the shop in dispute as stated above and to live on the first floor of the shop in dispute. The applicant is having family of his son Rajesh to support. The applicant earlier could not come to Gurdaspur because of illness of her son Rajesh. Rajesh was having two sons and two daughters at the time of his death who are living with the applicant and Laghav being elder will join the applicant in business. It is added that the applicant originally belongs to Gurdaspur and all her relatives are living at Gurdaspur and as such, her needs are genuine, sincere, honest and bona-fide. That the applicant is not in possession of any such premises to run her business within the urban area of Gurdaspur or any where else nor she has vacated any such premises after the commencement of Act. It is added that there were two shops owned by Jagan Nath and Vaishno Dass and shop in dispute fell in the share of Jagan Nath in oral partition whereas shop on the northern side of the shop in dispute fell into share of Vaishno Dass is receiving rent from Tailor Master of that shop, whereas Jagan Nath was receiving the rent of shop in dispute and after his death, applicant is landlord of the shop in dispute and is receiving the rent.”

Revision petitioner contested the plea raised by plaintiff/respondent, *inter alia*, pleading that the shop in dispute is not required for her personal use and ejectment application has been filed just to get the eviction order.

Pleadings of the parties led to the framing of issues as follows:-

1. *Whether there exists the relationship of landlord and tenant between the parties? OPA*
2. *Whether the respondent is liable to be ejected from the shop in dispute? OPA*
3. *Whether the applicant requires the shop in dispute for her personal bonafide use and occupation? OPA*
4. *Whether the applicant has got cause of action for filing the present application? OPR*
5. *Relief.*

Rent Controller allowed the ejectment petition holding the need of shop projected by respondent as genuine. Appellate Authority, Gurdaspur upheld the judgment of Rent Controller.

I have heard learned counsel for revision petitioner and perused the paper book.

The respondent landlord belongs to Gurdaspur. She has to come to Chandigarh for treatment of her son Rajesh, who could not survive. She started living with the family of his son in one room accommodation at Mohali. The respondent-landlord has pleaded that during the three years of illness of her son, all her earnings and savings were spent on his treatment. Now again she wants to shift to Gurdaspur to start business in the demised premises with her grand son. On the basis of evidence produced on file and keeping in view the settled principal of law that a landlord is best judge of his requirement and needs, Rent Controller while adjudging the requirement of respondent-landlord for the demised premises observed in para No.14 of his order as follows :-

“14. If we see the case of the applicant in the light of above said judgment, then we can say without any hesitation that the applicant Sheela is the best judge to decide where she

wants to start her business and the case of the applicant admitted by the respondent Harbhajan Singh by giving reply that Rajesh Kumar the only son of the applicant had died and other daughter of the applicant had also died and further admitted applicant went to Chandigarh for getting continuous medical treatment to her son Rajesh for many years and ultimately Rajesh died and further admitted that the applicant is having many other relatives including cousin brother etc. at Gurdaspur near the shop in dispute and also admitted applicant Sheela originally belongs to Gurdaspur. But, I think if she has so many relatives at Gurdaspur even near the shop in dispute and then intention of the applicant is virtually to start the business where she can get every type of help from her relatives in continuing running of her business and accordingly, I find that applicant requires the shop for her personal use and occupation and accordingly, the respondent is liable to be ejected from the shop in dispute and all these issues are decided in favour of the applicant and against the respondent.”

The contention of revision petitioner before the Appellate Authority that respondent-landlord and her grandson are well settled at Chandigarh and this petition has been filed just to evict him from the disputed shop, was considered and rejected and it was observed as follows:-

“..... It also stands proved on record to the entire satisfaction of this Court that the respondent/petitioner Sheela had been going to Chandigarh only for the purpose of the treatment of her deceased son Rajesh Kumar which continued for over years. On the other hand, there is nothing in the cross-examination of the respondent/petitioner Sheela which may suggest in any manner that she had ever shifted to Chandigarh or that her grand son Laghav had started any business over there. So, the petitioner/respondent Sheela successfully

established her requirement for the disputed shop for her use and occupation i.e. to start a business of her grand son Laghav son of Rajesh Kumar. So, I do not find any force behind the contention raised by learned counsel for appellant/respondent as he miserably failed to prove his contention by leading any cogent and convincing evidence. His solitary statement is not at all sufficient to prove the running of well established business by respondent/petitioner or her grand son Laghav at Chandigarh. ”

During the course of arguments, learned counsel for revision petitioner has raised two fold arguments. Firstly, the respondent-landlord is living at Mohali and has no accommodation to live at Gurdaspur; secondly, she has already sold her properties at Gurdaspur vide sale deeds Ex.RY and Ex.RX, placed on record.

Both the courts below have discussed in detail, on the basis of evidence on record, that respondent-landlord has not shifted to Mohali for any business rather she had come here for treatment of her ailing son which continued for a considerable long time of three years but he could not survive. It is also submitted that Rajesh Kumar was the only son of respondent-landlord. Even if, the respondent-landlord had sold some of her properties, this may have been necessitated for the treatment of her son as there is no evidence that there was any earning member in the family and the respondent-landlord has specifically pleaded that treatment of her son continued for a period of three years exhausting all her earning and savings. The respondent-landlord has taken a specific plea that on going back to Gurdaspur, she will live on the first floor of the shop. There is nothing on record that respondent-landlord owns any property at Mohali. It is for her to decide as to where it will be suitable for her to live and earn livelihood.

Both the arguments of learned counsel for revision petitioner are without any substance and as such rejected.

On perusal of the paper book and the orders of Rent Controller and the Appellate Authority, I, do not find any legal or factual infirmity therein calling for interference.

This revision petition is without any merits.

Dismissed.

January 16, 2015.
deepak

(SURINDER GUPTA)
JUDGE