

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

114

Civil Revision No.4093 of 2015

Date of Decision:31.08.2015

Hari Krishan

....petitioner

Versus

Roop Lal and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

- 1.Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not? YES**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr.A.S.Bhatti, Advocate
for the petitioner

ARUN PALLI, J.(ORAL):-

Vide order dated 29.09.2012, rendered by the Rent Controller, Ludhiana, eviction petition filed by the petitioner-landlord under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the Rent Act') was dismissed. Appeal preferred against the said order also failed, and, was dismissed vide judgment dated 26.02.2015. This is how, the petitioner is before this Court.

Petitioner had sought ejectment of the respondents, on multiple grounds. However, the only ground that was pressed on account of which the eviction of the respondents was prayed was the personal bona fide necessity of the petitioner-landlord. It was maintained that petitioner had two sons namely Gopal Krishan, aged

33 years, who held a diploma in Mechanical Engineering and Krishan Mohan, aged 26 years, who was a graduate. Both were unemployed and un-settled. Petitioner purports to be engaged in a business under the name and style of M/s Capital Machine Fabrics, which was also part of the same property as the demised premises i.e. property bearing No.B.XXI-1016 (old), BXXI-12638 (New), Partap Chowk, Link Road, Ludhiana. But as he required to expand his business to settle his sons and accommodation in his occupation was insufficient, he also required the demised premises.

In defence, it was pleaded, inter alia, that the accommodation in possession of the petitioner was more than sufficient as he occupied an area measuring 500 sq.yards, where he had set up his business. Whereas, the demised premises was a small shop consisting of an area measuring 35 sq.yards. It was denied that the petitioner actually required the premises for his personal bona fide need.

On a comprehensive consideration of the matter in issue, the Courts below concurrently concluded that although the petitioner claimed eviction to settle his two unemployed and un-settled sons, but, in his cross examination he conceded that his firm namely M/s Capital Machine Fabrics was an income tax assessee and the turn over of the said firm was ₹ 17/18 lacs per annum. And his sons Gopal Krishan and Krishan Mohan were engaged in the said firm and the account books of the firm reflect that both were being paid salaries by the firm. Further, his elder son Gopal Krishan had joined him in the said business from the very beginning and his

younger son Krishan Mohan too had joined about 7/8 years ago. He maintained that he could produce the records as regards income tax, sales tax and account books of the firm on the next date of hearing, but the said records were never produced. He pleaded ignorance as regards the salaries that were being paid to his sons in the said firm. That being so, it was concluded that the petitioner had deliberately concealed the necessary records as that would have possibly shown that his sons were partners in the said business. Further, in the site plan produced by the petitioner, the total area that is in occupation and possession of the petitioner was not depicted so as to prove as to what type of business he was engaged in, and how much area did he actually require to settle down his sons. Not just that, the witness examined by the petitioner namely Rajesh Sharma (PW1) conceded in his cross examination that petitioner as also both his sons were doing business in the name and style; M/s Capital Machine Fabric. Likewise, Darshan Singh (PW2) also conceded that the petitioner and both his sons were doing manufacturing and job work. That being so, the entire case set out by the petitioner stood vitiated.

Even this Court, on July 03, 2015, had afforded time to the petitioner to produce on record the evidence to show the nature of business being run by him and as to how his sons were associated with him. Despite opportunity granted, nothing is brought on record to clarify as to what is the nature of business that indeed is being run by the petitioner-landlord and in what capacity his two sons were engaged or employed in the said firm. Not just that, it was not even pleaded that the sons of the petitioner for whom the eviction was

sought, they themselves did not occupy or possess any other accommodation in local urban area.

Learned counsel for the petitioner could not point out as to how the conclusions that have concurrently been recorded by the Courts below, were either contrary to the position on record or suffered from any material illegality. The petition suffers from both merits as also the bona fides.

In the wake of the position as set out above, no interference is warranted in exercise of revisional jurisdiction under Section 15(5) of the Rent Act. The petition being devoid of merit is accordingly, dismissed.

31.08.2015

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(ARUN PALLI)
JUDGE