

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 4277 of 2015 (O&M)
Date of Decision: 13.7.2015.**

Tilak Singh @ Thakur

.....Petitioner

Versus

Amrik Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. C.L.Verma, Advocate
for the petitioner.

Mr. Aayush Gupta, Advocate
for the caveator/respondent.

SABINA, J.

Respondent had filed the petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking ejectment of the petitioner from the premises in question. Learned Rent Controller vide order dated 17.11.2014 allowed the ejectment petition. Aggrieved against the said order, petitioner preferred an appeal and the same was dismissed by the Appellate Authority vide judgment dated 26.5.2015. Hence, the present petition by the petitioner-tenant.

Learned counsel for the petitioner has submitted that the Rent Controller had initially assessed the rate of rent at ₹ 4,000/- per month. Thereafter, the matter was remanded to the Rent Controller by the Appellate Authority to decide the rent petition by giving specific findings on issue Nos. 1, 2 and 5. Thereafter, the Rent Controller assessed the rate of rent at ₹ 750/-

per month. No opportunity was given to the petitioner to pay the said arrears of rent nor the petitioner was granted any opportunity to establish the rate of rent. Petitioner has been doing the business of repair of bicycles and rickshaws with the permission of the landlord. The petitioner had dishonoured his son and the son of the petitioner namely Bhupinder Singh @ Kala was not residing with the petitioner.

Learned counsel for the caveator, on the other hand, has opposed the petition.

In the present case, respondent had sought the ejectment of the petitioner from the premises in question on the grounds that the tenant was in arrears of rent and had materially impaired the value and utility of the tenanted premises and was a source of continuous nuisance. The Rent Controller allowed the ejectment petition on the ground of non payment of arrears of rent, material alterations and that the tenant was a source of continuous nuisance to the landlord. The appeal filed by the petitioner against the order passed by the learned Rent Controller, was dismissed by the Appellate Authority.

The case of the landlord was that Bhupinder Singh @ Kala son of the petitioner, was residing with him (petitioner). Bhupinder Singh @ Kala was indulging in anti-social activities and was a source of continuous nuisance to the landlord as well as the other residents of the area. Respondent examined PW-3 Head Constable Santokh Singh who proved on record FIRs registered against the son of the petitioner under Section 61 of the Excise Act and Section 341/323 of the Indian Penal Code, 1860. Although, petitioner has relied upon his affidavit dated 3.2.2006 (Mark-A) to

substantiate his plea that his son Bhupinder Singh @ Kala was not residing with him but the Courts below rightly did not base reliance on the said affidavit as the same was not proved record, in accordance with law. Further, the petitioner had failed to corroborate his plea by examining any witness from the neighbourhood to substantiate his plea that his son was not residing with him. Hence, the Courts below rightly held that the petitioner was a source of continuous nuisance.

The case of the respondent further was that the petitioner had materially altered the premises and had thereby impaired the value and utility of the tenanted premises. Petitioner had removed the wooden doors of the rooms falling on the eastern side and had installed shutters and the premises which had been rented out for residential purposes only, had been used for running the business of repair of bicycles and rickshaws since February/March 2006. The fact that the petitioner was running the business of repair of bicycles and rickshaws in the premises in question, was admitted by the petitioner and his witnesses. Petitioner had failed to establish that he had started running the said business after taking permission from the respondent. Hence, the Courts below rightly held that the respondent had been successful in proving issue No. 4. Hence, the petitioner was liable to be ejected from the premises in question.

So far as the ground for ejectment qua arrears of rent is concerned, it has been noticed by the Appellate Authority that the rate of rent had been assessed as per Exhibit P-3 at the rate of ₹ 750/- per month. It has further been noticed by the Appellate Authority that admittedly, petitioner had not tendered rent after

31.7.2012. Hence, the petitioner was rightly held to be in arrears of rent.

In the facts and circumstances of the present case, the Courts below had, thus, rightly allowed the ejectment petition filed by the respondent.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

July 13, 2015
Gurpreet