

CR No.449 of 2015 (O&M)

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

**CR No.449 of 2015 (O&M)
Date of decision:23.01.2015**

Baldev Raj

...Petitioner

Versus

Madhu Anand

...Respondent

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sunil Chadha, Senior Advocate, with
Mr. Vaibhav Narang, Advocate, for the petitioner.

Rakesh Kumar Jain, J.

The tenant is in revision against the order passed by both the Courts below by which he has been ordered to be evicted from the demised premises on a petition filed under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (here-in-after referred to as the “Act”) on the ground of *bona fide* necessity of the landlady.

Learned counsel for the petitioner has argued that the eviction petition was not maintainable as it has been filed in respect of two separate properties which comprises of a shop and Parchhati. He has also argued that photocopy of the power of attorney has been produced by the son of the landlady which has been relied upon by the Courts below. In support of his submission, he has relied upon the following judgments:-

1. **Panna Lal v. Shri Devjit**, RCR (Rent) 530;

2. **Sada Nand v. Saroj Devi**, RCR (Rent) 417;
3. **Jawala Singh v. Dr. Banarsi Dass and another**,
RCR (Rent) 488;
4. **Smt. Atro Devi v. Dittu Ram**, 1984(1) R.C.R.
(Rent) 333;
5. **Surinder Singh and others v. Rup Kaur and
others**, 1986(2) RCR (Rent) 53;
6. **Kailash Chand v. Mool Raj Sondhi**, 1987(2)
RCR (Rent) 226; and
7. **Manohar Singh Sarhadi v. Ramji Dass and
another**, 1990(1) RCR (Rent) 227.

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

Insofar as the power of attorney is concerned, the landlady herself has appeared in the witness box as AW5 and also examined her attorney Jatin Anand as AW1 to prove the *bona fide* requirement.

As a matter of fact, much emphasis has been laid on the point that a single eviction petition in regard to two separate properties was not maintainable. None of the judgments relied upon by learned counsel for the petitioner are applicable to the facts and circumstances of the present case.

In **Panna Lal's case (supra)**, the entire house was let out to a tenant by the landlady who further sold the said premises in two portions to two persons and the new landlord applied for eviction of the tenant from the portion which he had purchased. It was held that the eviction application

was not maintainable as it was for the ejectment for a part of tenancy.

In **Sada Nand's case (supra)**, the tenant took two tenancies under one landlord on different occasions. He was in arrears of rent. The landlord filed one ejectment petition for both the tenancies. The tenant tendered the rent on the first date of hearing but it was adequate for one tenancy. It was held that the tenant cannot be ejected from both the premises and the rent tendered may be adjusted towards one tenancy to make it adequate.

In **Jawala Singh's case (supra)**, two shops were let out under one rent note but rent for each shop was fixed separately. It was deemed to be two separate tenancies and on account of sub-letting of one of the shops, it was held that the tenant is not liable to be evicted from the other.

In **Smt. Atro Devi's case (supra)**, the landlady initially let out one room for residential purpose and later on two rooms for commercial purpose and charged the consolidated rent for all the three rooms. She filed a petition for eviction of the tenant from one room which was held to be not maintainable as the landlady treated single tenancy by conduct.

In **Surinder Singh and others' case (supra)**, there were joint owners who had partitioned their property and started getting rent separately from the tenants. Thereafter, they filed joint application for ejectment of the tenants which was not found to be maintainable. It was held that each landlord should file separate application on the ground of their *bona fide* requirement.

In **Kailash Chand's case (supra)**, there were two premises in

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possession of the tenant. The landlord sought ejectment from shop and chaubara on the ground of non-payment of rent. The tenant paid the arrears of rent for the shop on the first date of hearing but the arrears in respect of chaubara were not paid. This Court held that by making one ejectment application for two premises, the right of the tenant has been prejudiced. This case is also not applicable to the present case as the facts and circumstances of both the cases are distinguishable.

In **Manohar Singh Sarhadi's case (supra)**, the shop was let out in the year 1963, the residential portion to the same tenant in 1976 and the rent was fixed separately. Thus it was found to be separate tenancies and it was held that the tenant is not liable to be ejected from the shop.

All the aforesaid judgments relied upon by learned counsel for the petitioner are thus inapplicable to the facts and circumstances of the present case in which the moot point raised by learned counsel for the petitioner that a single petition in respect of two tenancies is not maintainable has not been addressed.

In view of the aforesaid, I do not find any merit in the present revision petition and hence, the same is hereby dismissed.

January 23, 2015
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(**Rakesh Kumar Jain**)
Judge