

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

CR No.4652 of 2015 (O&M)

Date of decision : July 30, 2015

Amarjeet Singh

..... Petitioner

Versus

Smt. Darshna Devi (deceased) through her LR Sh. Rajesh Chand Goyal

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

Present : Mr. Avnish Mittal, Advocate
for the petitioner.

GURMIT RAM, J.

1. This revision petition is preferred at the instance of the petitioner herein (tenant) against the judgment dated 31.03.2014 passed by learned Rent Controller, Ambala, vide which the petition filed by respondent herein (landlord) for ejectment of petitioner herein (tenant) from the demised shop No.4186 was accepted and the judgment dated 14.07.2015 passed by learned Appellate Authority, Ambala vide which the appeal of tenant preferred against the aforesaid judgment of learned Rent Controller was dismissed.

2. The case of the respondent-herein (landlord) before learned Rent Controller in nut-shell was that the petitioner herein is tenant in the demised shop comprising of one hall room at a monthly rent of ₹3,037/-

under the respondent-herein (landlord). The landlady required the demised shop for starting business of her son Rajesh Chand Goel aged about 58 years. Presently her said son is running hardware and paint business under the name and style of M/s Prem Chand and Sons along with his younger brother Brijesh Chand Goel in shop No.4184, Hill Road Ambala Cantt., which is near the demised shop. Varun Goel son of said Brijesh Chand Goel after completing his MBA studies has started sitting in the said business who is very much likely to join the business with his father. For this reason, the said son of landlady namely Rajesh Chand Goel is not interested to continue partnership with his brother Brijesh Chand Goel. Now he wants to settle his own business of plywood sheets etc. independently. Hence was the instant ejectment petition.

3. On notice, tenant appeared and filed written statement wherein admitting that he is in possession of demised shop as a tenant since May 1989. He has been paying the rent of his shop to the landlady regularly. The demised shop is stated to be a part of big residential house. It is further his contention that abovesaid Rajesh Chand Goel son of landlady who is doing the business in partnership with his brother Brijesh Chand Goel is already running his business independently. He is stated to be 58 years old and unmarried, having no dependency or liability upon him. Landlady has sufficient accommodation for her own use and occupation as well as for her aforesaid son Rajesh Chand Goel. It was denied that son of Brijesh Chand Goel has grown up or that he is likely to join the business with his father. In this connection it was also his plea that since the said son of Brijesh Chand Goel has done MBA, so he is to very much likely to join some multinational

firm to make his career. Rest of the averments were also denied by the tenant.

4. Issues were framed. Both the parties also led their evidence in support of their respective claims.

5. Learned Rent Controller after hearing learned counsel for both the parties and pursing the record as well, accepted the ejectment petition of the landlady on the ground of personal necessity vide impugned judgment dated 31.03.2014. Appeal preferred against this judgment by the tenant was also dismissed by learned Appellate Authority, Ambala vide impugned judgment dated 14.07.2015.

6. The tenant being not satisfied with the findings recorded by both the Courts below has come up before this Court vide the instant revision petition.

7. I have heard learned counsel for the petitioner-herein (tenant) and also perused the record with his able assistance.

8. Learned counsel for the petitioner-herein (tenant) has contended that it is a clear case of concealment of material facts on the part of respondent herein (landlady) since, she was having several properties in urban area within municipal limit, Ambala other than demised shop. She did not disclose the same either in the ejectment petition or in the replication. So the ejectment petition was liable to be dismissed on this short point alone. But both the Courts below had miserably failed to take note of this fact while passing impugned judgments. So as a result thereof the same are liable to be set aside and the ejectment petition was to be dismissed. In support of his contention, he has referred to the cross-

examination of PW-1, Rajesh Chand Goel for whose personal requirement, the landlady had filed the instant ejectment application. Further in order to muster strength to his abovesaid contention, learned counsel for the petitioner-herein (tenant) has also relied upon case laws titled as ***Shankar Lal vs. Madan Lal & others, 2011 (1) R.C.R. (Rent) 139; Ravinder Sood and another vs. Mohan Lal 2013(2) R.C.R. (Rent) 91*** and ***Anil Kumar Sood vs. Subhash Chander Kapila, 2015(1) R.C.R.(Rent) 404.***

9. In order to appreciate the above contention as raised by learned counsel for the petitioner-herein (tenant), I deem it necessary to discuss the statement of PW-1 Rajesh Chand Goel as made by him in his cross-examination, which is as under:-

“Two properties bearing Nos.4186 and 5546 were in the name of his mother and except these two properties, there was no other property in her name. He is residing in property No.4184, which is in the name of his younger brother Brijesh Chander Goel. His brother is having two children, who are married.....

Property No.5546 which is situated at Niclonson Road, is in the name of his mother. Then in the same breath he has stated that this property is in the name of his brother Satish Chander Goel. Then he also stated that WILL qua this property was executed by his mother in favour of his said brother Satish Chander Goel. Then it is also found mentioned in the beginning of cross-examination of this witness that they are four brothers namely Subhash Chander, Satish Chander, Brijesh Chander

and he himself. His mother Darshna Devi was expired in the month of February, 2012.....

House No.4185 is behind the godown & shops and their godowns are situated in this property, which are in their possession. The upper portion of property under the occupation of tenant is numbered as 4186-A, B and C. They are residing in all the three portions. The area of the property No.4186 is about 160 square yards in which there is shop of Daljit in the area measuring 40x15 and the same is in possession of respondent as tenant”.

10. From the above discussed cross-examination of PW-1, it transpired that the respondent herein (landlord) has been residing along with his brother and his family in house No.4186. Then it has also come in his cross-examination that his said brother Brijesh Chander Goel is having two children, who both are married. Then the demised shop is also situated in this residential house. So if any area of this property is stated to be vacant then the same might be required by the respondent herein (landlord), his brother Brijesh Chand Goel and his family members. Then it has also come in his cross-examination that both the said children of his brother are married and as such some portion of this house is also to be kept reserved for adjusting the guests/visitors visiting to their house. So, no case of concealment with regard to this property is made out. So far as property No.4184 is concerned, the present respondent (landlord) along with his brother Brijesh Chander Goel is running his business in this shop at present. So there is nothing to say that the landlady had concealed any material fact

with regard to this property while filing the instant ejectment application. So far as property No.5546 is concerned, sufficient evidence has come on record in the cross-examination of this witness that this property stands in the name of his brother Satish Chander Goel, in whose favour his mother had executed a WILL. So far as House No.4185 is concerned, same is owned by the respondent herein (landlord) and others, who are in its possession. Then as abovesaid respondent herein is having three brothers. As PW-1/Rajesh Chand Goel has not stated specifically that the said shops and godowns were in the exclusive possession of the landlady, when the instant ejectment petition was filed. So his statement could be interpreted in a manner that the said shops and godowns were in possession of all the brothers of the respondent herein jointly and not in the exclusive possession of the landlady when the instant ejectment petition was filed.

11. So in the light of above analytical analysis of cross-examination of PW-1/Rajesh Chand Goel, no case of concealment of material facts is made out. So the above contention of learned counsel for the petitioner herein (tenant) is held to be devoid of any merit and declined accordingly. For this reason case laws cited supra are not found to be applicable to the case in hand.

If the respondent herein (landlord) is 58 years old and unmarried then same cannot be treated to be ground to decline the relief of personal necessity qua demised premises. In the present time with the changed circumstances everyone is willing to lead his life in his own independent style as well as to do his business of his own choice as permissible under the rules without interference of anybody. Neither the

tenant nor the Court can dictate any terms to the landlord with regard to his personal requirement or his business which he is going to start or to expand, if he is already running some business. The duty of the Court is only to see that the alleged personal requirement of the landlord qua any demised premises should be bona fide, honest, justifiable with the element of need. In the case in hand nothing has come out on the record to hold that the alleged personal requirement of the respondent herein (landlord) qua demised premises is either mala fide or tainted with any ulterior motive. Concurrent findings recorded by both the Courts below are held to be correct as well as legal based on the evidence on the record. No ground for making any interference in the same is made out. Resultantly, this revision petition stands dismissed and disposed of accordingly.

July 30, 2015

Gaurav Sorot

**(GURMIT RAM)
JUDGE**