

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

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**Civil Revision No.5112 of 2015 (O & M)
Date of Decision:13.08.2015**

Baljinder Singh

....petitioner

Versus

Ajay Kansal and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Divanshu Jain, Advocate
for the petitioner

ARUN PALLI, J.(ORAL):-

Eviction of the petitioner-tenant has been ordered, on the ground of personal necessity, vide order dated 15.05.2013, passed by Rent Controller, Kaithal. Appeal preferred against the said order also failed and was dismissed by the appellate authority, vide judgment dated 29.05.2015. This is how, the petitioner-tenant is before this Court.

Demised premises is a shop, situated on the ground floor, bearing private No.84, MCK No. 673/13, constructed over an area measuring 57.50 sq.yards. It was maintained that the premises was required for the personal bona fide need of petitioner No.1 namely Ajay Kansal, who happened to be a young boy of 25 years of age and was an unemployed graduate. As he intended to set up a business of spare parts.

In defence, it was pleaded, inter alia, that the petitioner No.1 actually did not require the shop in question for his personal use and occupation as he was residing with his father Sh.Ram Bilas and

other family members. And he was engaged in a joint family business. Petitioner No.1 had suppressed certain crucial facts as he was also running an electronics and electrical goods shop in the name and style; Gupta Electronics at main chowk, Cheeka. Family of petitioner No.1 indeed owned multiple businesses such as M/s Annpurna Rice Mill and Amba Foods Rice Mills at Cheeka. And a commission agency, that was being run in the shops owned by the family, in the name and style; M/s Baru Mal Mahabir Parshad and M/s Khazanchi Lal Satish Kumar commission agents, at Grain Market, Cheeka. Thus, the alleged need lacked bona fides.

On an analysis of the matter in issue and evidence on record, the Rent Controller arrived at a conclusion that the relationship of landlord and tenant between the parties was conceded. Respondent No.1 i.e.Ajay Kansal (PW1), appeared in support of his case and proved his claim. The case set out by the petitioner-tenant that respondent No.1 was indeed engaged in multiple family businesses and putting up with his father in a joint family set up, remained un-substantiated for want of any cogent and convincing evidence. The plea that respondent No.1 was in fact running an electronic shop; M/s Gupta Electronics, Cheeka, remained unproved. It was observed that if at all respondent No.1 was occasionally assisting his father in his ventures, that would hardly mean that his need to occupy the premises was not conceived in good faith. The plea that respondent No.1 had not disclosed in the eviction petition all the multiple businesses being run by his family, was hardly of any significance for, in law, landlord was not required to

plead as regards the businesses that were being run by his family. In any case, nothing was brought on record to even remotely suggest that respondent No.1 was, in any manner, involved, engaged or managing the family business. So much so, none other than the petitioner himself i.e. Balwinder Singh(RW-1), conceded in his cross-examination that he had not seen any document qua the ownership of the firms being run by the family of respondent No.1, as also as to who was the owner of M/s Gupta Electronics. Accordingly, the eviction petition was allowed.

As indicated above, being aggrieved against the order of eviction, the petitioner preferred an appeal. Learned appellate authority reviewed the matter in issue, evidence on record and on an analysis thereof, found itself in concurrence with the findings recorded by the Rent Controller. Consequently the appeal was dismissed.

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

Learned counsel for the petitioner simply seeks to reiterate the submissions that were advanced before the Courts below and were rejected after a due and thoughtful consideration. All what he has urged is that in the eviction petition filed by the respondents, it was not specifically pleaded that even petitioner No.2 was also not in possession of any other building in the same local urban area, something that was mandatory. Secondly, respondent No.1 graduated in the year 2006-07, and the eviction petition was preferred four years later on 02.08.2010, and, thus, it could not be

believed that he did nothing in the interregnum. Further, the demised premises was purchased in the name of respondent No.1, by his father i.e. Sh.Ram Bilas and the material on record showed that father of the landlord was indeed engaged in multiple businesses, and, thus, the alleged requirement was devoid of any element of true and genuine need.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the instant petition is devoid of merit and is, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Concededly, there exists a relationship of landlord and tenant between the parties. This is not disputed that respondent No.1 is an unemployed graduate of 25 years of age. Nothing was brought on record, least any cogent or credible evidence to show that he indeed was either engaged in any family business or in some independent avocation. No doubt, evidence on record shows that the family of respondent No.1 has multiple businesses at Cheeka, but nothing was brought on record to show that he was either a partner or a sole proprietor in any of those firms, or was ever managing and handling those businesses. The plea set out by the petitioner that respondent No.1 was indeed running an electronic shop: M/s Gupta Electronics at Cheeka, remained un-substantiated. The positive case set out by respondent No.1 was that he intends to start a business of spare parts in the demised premises and needed to stand on his own legs. Further, he did not occupy or possess any other building in the same urban area nor had vacated any after

promulgation of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (for short 'the Act'). Once that was so, the presumption that permeates the record is that need of respondent No.1 was bona fide. Nothing was brought on record to rebut the said presumption. Just because, respondent No.1 graduated in the year 2006-07, and eviction petition was filed four years later, and, therefore, it could not be believed that he sat idle for all these years, would also not advance the case of the petitioner a bit. As observed in the preceding paragraphs, nothing was brought on record to show that he indeed was involved or engaged in family business or otherwise. If he occasionally assisted his father in his ventures, that would hardly be of any consequence to suggest that he cannot think of being self reliant and set up an independent business. And, likewise, the argument that demised premises was purchased by father of respondent No.1 in the name of his son, would also make no difference. Fact remains that respondent No.1 is the owner as also the landlord and, could thus, seek eviction of the petitioner. No doubt, respondent No.2 is also a co-owner of the premises, and, even if she is presumed to be in occupation of another accommodation, that would not dis-entitle respondent No.1 to seek eviction for his personal and exclusive bona fide need. Therefore, it was hardly required to be pleaded that even she did not occupy any other accommodation in local urban area. Further, no such objection was ever raised by the petitioner in the written statement, least urged before the Courts below. Still further, nothing is brought on record to show that either respondent No.1 or respondent No.2

actually possessed any other accommodation in the same local urban area. No prejudice is shown to have been caused to the petitioner. Further, records show that entire family business of respondent No.1 is at Cheeka, whereas respondent No.1 intends to set up the business in the demised premises that is situated at Kaithal.

In the wake of the position as set out above, no interference is warranted in exercise of revisional jurisdiction under Section 15 (6) of the Act. The petition being devoid of merit is accordingly dismissed.

13.08.2015

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(ARUN PALLI)
JUDGE