

**CM No.5491-CII of 2015 in/and
CR No.6289 of 2014(O&M)**

[1]

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

**CM No.5491-CII of 2015 in/and
CR No.6289 of 2014(O&M)
Date of Decision : 1.4.2015**

Rajesh Nagar and another

.....Petitioners

Versus

Bhupinder Nagpal and another

.....Respondents

CORAM:-

HON'BLE MR. JUSTICE GURMIT RAM

To be referred to the Reporters or not? No/Yes

Whether the judgment should be reported in the Digest? No/Yes

Present:

Mr. Jaideep Verma, Advocate
for the applicants/petitioners.

Respondent No.1 Bhupinder Nagpal
in person.

GURMIT RAM, J.

CM No.5491-CII of 2015

Today the case was fixed for hearing on the above-said application under Section 151 CPC to stay the final order in ejectment application during the pendency of instant revision petition. However, on the oral request of respondent No.1 who appeared in person on notice, main revision petition is taken up today for hearing.

CR No.6289 of 2014

This revision petition is filed by the petitioners-tenants Rajesh Nagar and another against the order dated 5.8.2014 (Annexure P-7) vide which their application under Order 14 Rule 5 read

with Section 151 CPC filed for striking out issue No.1 has been dismissed by the learned Rent Controller Chandigarh.

2. The learned counsel for the petitioners-tenants has contended that issue No.1 in this case has been framed by the learned Rent Controller wrongly and illegally, since there is no plea on the part of the respondent-landlords that they require the demised premises for their personal use and occupation. It is further his contention that the impugned order is illegal, null & void, void-*ab initio* etc. and as such it is liable to be set aside.

3. As per the records, the learned Rent Controller framed seven issues in this case vide order dated 25.7.2013 including issue No.1 which is now in controversy in this revision petition and the same is as under:-

1. Whether the petitioners are entitled for order of eviction of the respondents from the demised premises for their own personal use and occupation? OPP.

4. Feeling aggrieved from the framing of this issue No.1 the respondents-tenants filed an application under Order 14 Rule 5 read with Section 151 CPC for striking out this issue. In reply to this application, the petitioner-landlords took the plea that issue No.1 has rightly been framed. The petitioners want to eject the respondent/tenants from the demised premises on the ground of personal necessity and also to demolish the partitions in the demised premises in order to bring the same in conformity with laws.

5. The learned Rent Controller after hearing learned

counsel for the parties dismissed this application of the respondents-tenants vide the impugned order.

6. Feeling aggrieved from this order, the petitioner-tenants have come up in the instant revision petition, notice of which was given to the respondent-landlords.

7. In order to decide the entire controversy as involved in this revision petition, I deem it proper to discuss the grounds on which the present respondents-landlords have sought the ejectment of the petitioners-tenants from the demised premises. These grounds are mentioned in para No.7 of the copy of the petition which is available on the file as Annexure P-1. The same are detailed as under:-

(i) Personal requirement as the cabins are not of adequate dimensions and have also not been erected as are required by the building bye laws as such in order of comply with and to observe all Rules and Regulations as well as Bye Laws of the Local Administration, the possession of the said cabins is required so that the can be removed;

(ii) Misuse of the premises;

(iii) Non-payment of property tax, service tax and fire-tax.

8. So from the above discussion, it is quite clear that the respondents-landlords have sought the ejectment of the petitioner-tenants from the demised premises on three grounds including the ground of personal requirement. Though there seems to be some defect in the drafting of pleadings pertaining to personal requirement, but that does not

mean that it is a case in which the plea of personal requirement is not pleaded by the respondent-landlords. Respondent-landlord No.1 who is present in Court in person has vehemently submitted that they are seeking the ejectment of the petitioner-tenants from the demised premises on the ground of personal requirement as well. If there is any technical defect regarding the drafting of pleadings pertaining to personal necessity, then the remedy available with the present petitioner-tenants is to argue the same at the relevant time before the learned Rent Controller and also to take objections in this regard in his reply to ejectment petition.

9. So, it is not a case in which plea regarding personal requirement is completely missing. As above-said it is very much there, though it is not found to be properly drafted.

10. In the light of the above discussion, this revision is held to be meritless. Hence, the same stands dismissed and disposed of accordingly.

Nothing observed hereinabove will have any effect on the ejectment petition which is stated to be pending before the learned Rent Controller, U.T. Chandigarh.

File need not be put up on 10.07.2015.

Since the main revision petition has been disposed of, the miscellaneous application, if any, also stands automatically disposed of having been rendered infructuous.

**1.4.2015
Brij**

**(GURMIT RAM)
JUDGE**