

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 6521 of 2013

Date of Decision: May 29, 2015

Mann Kaur and another

.....Petitioners

Vs.

Malkiat Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Dr. Rau P.S. Girwar, Advocate
for the petitioners.

Mr. Sunil Garg, Advocate
for the respondent.

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M.M.S. BEDI, J.

Tenants have preferred this revision petition under Section 15 (5) of the East Punjab Urban Rent Restriction Act, 1949, for short 'the Act', against the ejectment order passed by the Appellate Authority, Bathinda, dated July 23, 2013 reversing the ejectment order passed by Rent Controller dated September 17, 2011 on the ground of personal necessity of landlord-respondent.

It is not out of place to observe here that the ejectment order passed by the Appellate Authority was upheld on the basis of the statement of counsel for the tenant- petitioners that he did not wish to press the petition on merits and that some reasonable time be granted for vacation of the premises on October 28, 2013. Giving protection of status quo to the petitioners against eviction, notice was issued to the landlord-respondent. The case was adjourned on four different occasions and then on application was filed by the petitioners on February 26, 2014 for review of the order passed by this Court on October 28, 2013 stating that the counsel had never been instructed to concede before the Court. The review application was dismissed on July 28, 2014 by a Coordinate Bench of this Court. The petitioners opted to file Special Leave Petition before the Hon'ble Supreme Court. The order passed by the High Court disposing the revision petition on the basis of concession was set aside requiring the High Court to give a second look to the matter ignoring the statement alleged to have been made by the counsel for petitioners and to dispose of the revision petition expeditiously on merits as far as possible within a period of three months vide order dated February 13, 2015.

The landlord- respondent had sought ejectment of Kirpal Singh (now represented by his wife Mann Kaur and son Paramjit Singh on the ground of non-payment of rent and personal necessity and sub-letting to his son and having ceased to keep the premises in question, claiming that the demised shop/ portion on the ground floor of building No. 5248 situated in

Sadar Bazaar, Bathinda was in possession of Kirpal Singh. The first floor of said shop was in possession of Darshan Singh, a relative of wife of the landlord- respondent without payment of rent and he was doing tailoring work at a small scale and had vacated the same about 5/6 months prior to the filing of the petition and delivered possession to the respondent- landlord. The second floor of said building was not fit for use and was in possession of the landlord. The first floor and second floor of the building were possessed by the landlord but were not sufficient for carrying on the business of sewing machines. Carrying on the business of repairing of sewing machines upstairs was not conducive / proper as such he required the demised shop on ground floor for setting up a showroom and sale counter and space for attending customers and also required to raise workshop and store room for new machines and old machines as he was carrying on the work of new machines in front portion of his residential building No. 4275 which belonged to his wife, thus he bonafide required the entire building No. 5248. One son of respondent who was 22 to 23 years old was doing computer work in portion of front room of building No. 4275 which was owned by wife of the landlord. The said room was neither suitable nor sufficient for computer work of the son of landlord and for his business. The wife of landlord was in possession of insufficient accommodation and required one bedroom for her and her husband, two rooms for her son, a guest room, a drawing room-cum-dining room, a store, a kitchen and a bath

room. The landlord was not the owner of any other commercial or residential building in his name except the building in question.

The Rent Controller on appreciation of the evidence placed on the record, arrived at a conclusion that the tenant had not sub-let the shop or ceased to occupy the premises without any sufficient cause and also held that the landlord did not bonafide need the shop in dispute; has failed to establish the element of need and that the need was a mere desire and wish of the landlord. The statement of the landlord- respondent Malkiat Singh regarding his bonafide need was disbelieved on the ground that he was running the business of machines repair on the first floor and that he had rented out a portion of the shop to his brother. The Rent Controller disbelieved that the landlord had been given in partition the shop in dispute and that he was not running the business of machine repair.

The lower Appellate Court, however, reversed the finding of the Rent Controller, considered the statement of landlord Malkiat Singh, his wife Surinder Kaur and held that the landlord- respondent had sufficient experience being engaged in the business of machine repairs. After the death of his father, the shop fell to the share of respondent. Sarabjit Singh son of respondent was having Diploma in Computer and used to work with the landlord. The other son who had done Diploma in Electrician also used to help him. The landlord has no other commercial premises anywhere other than the tenanted building and had not vacated the premises during his

life time and was entitled to get the tenanted shop vacated after a period of 38 long years of tenancy and that his need was bonafide.

Learned counsel for the tenant- petitioner has placed on record certain photographs of two shops to substantiate his arguments that the landlord- respondent has got sufficient accommodation available with him to run his business. He has argued that there are other shops in occupation of the landlord and that he had vacated one shop without any reason and that the respondent Malkiat Singh is doing his business of repair of sewing machines on first floor and that he is also in possession of another building.

I have, with the assistance of learned counsel for the petitioners, carefully gone through the judgments and appreciated the evidence produced by the landlord- respondent as well as the tenant and have minutely seen the pleadings wherein all the necessary ingredients have been pleaded by the landlord/ respondent to the effect that he bonafide requires the building and that he has got vacated the portion on the first floor which is not sufficient for him and that the portion in his possession is not sufficient enough for him and his family. It is settled principle of law that the landlord is the best judge of his needs.

I have carefully gone through the statement in cross-examination of Malkiat Singh AW5 who was cross-examined at length, which has been placed on record as annexure P-8. The credibility of the landlord could not be impeached in his cross-examination so far his bonafide need is concerned.

In view of the above, I do not find any ground to interfere in the order passed by the Appellate Authority.

Dismissed.

However, in the interest of justice, three months' time is granted to the petitioners to handover the vacant possession of the premises.

May 29, 2015
sanjay

(M.M.S.BEDI)
JUDGE