

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

**CR NO.6726 OF 2014 (O&M)
DATE OF DECISION : 11th FEBRUARY, 2015**

Shiv Lal

.... Petitioner

Versus

Shree Gaushala (Red.) Sirsa

.... Respondent

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

* * * *

Present : Mr. Arun Bansal, Advocate with
 Mr. Kanhiya Soni, Advocate for the petitioner.

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SURINDER GUPTA, J. (ORAL)

1. Heard.
2. The revision petitioner is a tenant in a shop of respondent-Shree Gaushala (Red.) Sirsa. His ejectment from the demised premises was sought on the ground of non-payment of rent and personal bonafide necessity for opening a milk booth, selling center for sale of cow milk and also for residential accommodation of the employees of Gaushala. The Rent Controller, Sirsa vide order dated 18.11.2013 upheld the requirement of the demised premises by the respondent-landlord for its bonafide requirement and ordered ejectment of revision petitioner from the demised premises. The order of the Rent Controller was affirmed by Appellate Authority, Sirsa.
3. Not satisfied, the revision petitioner has filed this revision petition, assailing the order of the authorities under the Haryana Urban (Control of Rent and Eviction) Act, 1973 (in short, Haryana Rent Act) on the ground that the landlord in this case is a registered body and under the

provision of the Rent Act, there could not be any personal bonafide necessity of a registered body. On merits, it is alleged that the respondent –landlord is having a big chunk of land measuring 40 acres, as such, for a small shop under the tenancy of petitioner measuring 15 feet x 9 feet it could not have any bonafide necessity. For opening a milk booth/milk centre, it has enough space which could be utilized. The petition was also not filed by duly authorized person on behalf of the respondent-landlord.

4. I have heard learned counsel for the petitioner and perused the paper book, but find no merit in either of the pleas raised by him.

5. The first argument of learned counsel for the revision petitioner that the society is a juristic person and could not have any personal bonafide necessity for the demised premises under the Rent Act, is without merit. Admittedly, the respondent is the landlord as well as the owner of the demised premises. Definition of term ‘landlord’ is vary wide and includes the person, who for the time being, is receiving or is entitled to receive the rent of a building whether on his own account or on behalf of another, or on account or on behalf of or for the benefit of himself and other or as an agent, trustee, executor, administrator, receiver, guardian or who would so receive the rent or be entitled to receive the rent, if the building was let to the tenant. For the purpose of seeking eviction on the ground of personal bonafide necessity as envisaged under Section 13 of Haryana Rent Act, it is only the owner of the building, who has right to occupy the same in his own right either for his own bonafide need or for the bonafide need of any person for whose benefit the building

is held by him. Undisputedly, the demised premise is owned by the respondent-society. It has projected the need of the demised premises for the ancillary activities of Gaushala i.e. for opening milk booth, milk selling centre and for residential accommodation for its employees. Learned counsel for the revision petitioner has argued that the Gaushala owns 40 acres of land and it can set up a milk booth or build the residence for its employees anywhere in the land owned by it. Need projected for a small shop under the tenancy of petitioner, which is only 135 sq. feet in area, is motivated.

6. The above argument of learned counsel for the revision petitioner is totally misplaced. The landlord is competent and appropriate authority to decide as to which part of its premises is to be used for which particular purpose and tenant lacks any authority to direct or advise him on this account. This plea is not available to the revision petitioner-tenant that the respondent-landlord can utilize its other part of property to fulfill the requirement projected for the demised premises. The respondent-landlord has felt need of setting up a milk booth at the site of demised premises. The need and requirement of the landlord is to be seen from the point of view of the landlord. Learned Rent Controller and Appellate Authority have committed no error of law or fact while reaching the conclusion that the demised premises is required for the personal bonafide need of the respondent-landlord.

7. During the course of argument, learned counsel for the revision petitioner has referred to the observations made in the case of

Harwant Kaur & others vs. Harinam Sankirtan Mandal (Regd.) Yamuna Nagar, 1972 RCR 663; Bharat Petroleum Corp. Ltd. And another vs. Smt. Raj Kumar Devi and others, 2004(1) Rent LR 644 and Harjit Kaur vs. M.K. Seth and another, 2005(1) PLR 547. In the case of *Harwant Kaur & others (supra)*, the coordinate Bench of this Court has observed that a juristic person can also get the premises vacated for its personal bonafide necessity. In that case, the landlord was a society and sought the ejectment of the tenant from the demised premises for setting up a school for children. The ejectment of the tenant from the residential building for the purpose of setting up the school was allowed. In the case of *Bharat Petroleum Corp. Ltd. & another (supra)*, it was observed that the definition of the landlord is quite wide and includes the person who for the time being is receiving or is entitled to receive the rent of a building whether on his own account or on behalf of another, or on account or on behalf of or for the benefit of himself and others or as an agent, trustee, executor, administrator, receiver, guardian or who would so receive the rent or be entitled to receive the rent, if the building was let to tenant.

8. The principle that the bonafide need of the respondent-landlord for the tenanted premises, is to be scrutinized taking into account the element of need and not of greed, is not disputed. In the case of *Harjit Kaur (supra)*, the scope and ambit of the revisional power of this Court under Section 15(5) of the East Punjab Urban Rent Restrict Act, 1949 (in short, the Act) which is similar to provision of Section 15(5) of Haryana

Rent Act, was discussed and in para 4 and 5 of the judgment, it was observed as follows:

4. The revisional power of this Court under Section 15(5) of the Act cannot be equated with the power to appeal. It is true that power in revision under Section 15(5) of the Act is wider than the power of revision conferred on this Court under Section 115 of the Code of Civil Procedure, 1908 but still it would fall short of the power of the appellate Court. Sub Section 5 of the Section 15 of the Act is reproduced below for facility of reference :-

"15. Vesting of appellate authority on officers by State Government:- (5) The High Court may, at any time, on the application of any aggrieved party or on its own motion, call and examine the records relating to any order passed or proceedings taken under this Act for the purpose of satisfying himself as to the legality or propriety of such order or proceedings may pass such an order in relation thereto as it may deem fit."

5. A similar provision made in the Haryana Urban Control of Rent and Eviction) Act, 1973 (for brevity 'the Haryana Act') came up for consideration before the Supreme Court in the case of Vaneet Jain v. Jagjit Singh (2000-3)126 P.L.R. 263 (S.C.). Dealing with the sub Section 6 of Section 15 of the Haryana Act which is pari materia to sub Section 5 of Section 15 of the Act, their Lordships observed as under:

"Sub-section (6) of Section 15 of the Act empowers the High Court to exercise its revisional jurisdiction for the purpose of satisfying itself if an order passed by the Rent Controller or the appellate authority is in accordance with law. The question that arises for consideration is whether the High Court in its revisional jurisdiction can reassess or re-evaluate the evidence only to come to a different finding than what has been recorded by the Court below, this Court in the case of Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta, (1999)6 S.C.C. 222 held, that the High Court cannot enter into appreciation or reappraisal of evidence merely because it is inclined to take a different view of the facts as if it were a Court of facts. However, the High Court is obliged to test the order of the Rent Controller on the touchstone of whether such an order is in accordance with law. For the limited purpose the High Court would be justified in reappraising the evidence. In Sarla Ahuja v. United India Insurance Co, Ltd., (1998)8 S.C.C. 119 it was held that the High Court while exercising the jurisdiction can reappraise the evidence only for a limited purpose for ascertaining as to whether the conclusion arrived at by the fact-finding court is wholly unreasonable. A perusal of sub-section (6) of Section 15 of the Act shows that the power of the High Court to revise an order is not an appellate power, but it is also true that it is not akin to power exercisable under Section 115 of the Code of Civil Procedure. It is no doubt true that the High Court would be justified in interfering with the order passed by the appellate

authority if the legality or propriety of such order demands such interference. We are, therefore, of the view that it is not permissible for the High Court to reassess or reappraise the evidence to arrive at a finding contrary to the finding of fact recorded by the Court below."

9. In the case in hand, the Rent Controller and Appellate Authority have looked into the genuineness of the claim and reached the conclusion that the need for the demised premises projected by the respondent is bonafide. This argument of learned counsel for the revision petitioner that the shop in possession of the revision petitioner is a small one, keeping in view the area of Gaushala, has no relevance while reaching the conclusion about the genuineness of the bonafide need projected for the space where the demised premises exists. A Gaushala caters to the need of hundreds of cows. The area is not used only for the cows but also for storing the feed, cutting and preparing of feed, growing of green fodder, residence of the employees etc. A particular place may have relevance for use for a particular purpose which the other location in the entire property owned by the landlord may not have.

10. On perusal of the paper book, judgments of learned Rent Controller and Appellate Authority, I find no factual or legal infirmity therein calling for interference.

11. This revision petition has no merit. Dismissed.

11th February, 2015
'raj'

(SURINDER GUPTA)
JUDGE