

201-2

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

CR No.6863 of 2014 (O&M)

Date of decision: April 06, 2015

Geeta Rani

.....Petitioner

Versus

Murti Shri Shivji Maharaj Installed in Temple
Shivji Maharaj

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Raghuwinder Singh, Advocate
for the petitioner.

Mr. R.S. Longia, Advocate
for the respondent.

SABINA, J

Respondent had filed petition under Section-13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 seeking ejectment of the petitioner/tenant.

The case of the respondent was that the temple was the owner-cum-landlord of the tenanted premises. Ram Chander had taken the plot in question on rent. After his death, the premises in question was in possession of his legal heirs. Rent note dated 06.03.1979 was executed in favour of Ram Chander. Respondent had also filed petition for determination of fair rent. Earlier an ejectment petition had been filed by the respondent against Ram Chander and the same was decided on 25.04.2003. During the pendency of the said petition, Ram Chander had died. Respondent had filed another petition for revision of fair rent and the same was decided on 22.12.2000. Ram Chander had also filed civil suit for permanent injunction restraining the landlord from demolishing the tenanted premises in question. On 12.09.2001,

the trial Court directed the tenant, not to alter the tenanted premises in question. The tenant had failed to tender the rent from 01.04.2002 to 30.04.2005. The premises in question was unfit and unsafe for human habitation. The landlord required the premises in question for its personal use by running a charitable dispensary in the premises in question.

The case of the petitioner was that the tenanted premises had been taken on rent by Ram Chander and he had constructed shop in question out of his own funds by using good building material. After the death of Ram Chander, petitioner had started running the business of stitching clothes in the tenanted premises. Petitioner was not aware of the other Court proceedings.

On the pleadings of the parties, following issues were framed by the Rent Controller:

- “i) Whether the respondents are liable to be evicted from the premises in dispute on the grounds mentioned in the petition? OPP*
- ii) Whether the petition is not maintainable? OPR*
- iii) Whether petitioner is estopped from filing the present suit by his won act and conduct? OPR*
- iv) Relief.”*

The Rent Controller vide order dated 27.05.2014 allowed the ejectment petition. The said order was upheld by the Appellate Court vide order dated 19.05.2014. Hence, the present petition by the tenant.

Learned counsel for the petitioner has submitted that the landlord had failed to establish its case. The Courts below had erred in allowing the ejectment petition.

Learned counsel for the respondent, on the other hand

has opposed the petition and has submitted that infact, the premises in question was unfit and unsafe for human habitation. In execution proceedings, the possession of the premises in question has been delivered to the respondent.

The landlord had sought ejectment of the tenant on the ground that shop in question was unfit and unsafe for human habitation. In this regard, local commissioner was appointed and as per the report of the local commissioner, the building in question had outlived its life and was unfit for human habitation. The petitioner had failed to rebut the report of the local commissioner. In these circumstances, the Courts below rightly held that the petitioner was liable to be ejected from the premises in question as it had become unsafe and unfit for human habitation. Moreover, now possession of the demised premises has been handed over to the landlord.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

April 06, 2015

m.singh