

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

CR No.874 of 2014

Date of decision : March 23, 2015

Shimbu Singh

..... Petitioner

Versus

Jagdev Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

Present : Mr. Jasbir Rattan, Advocate,
for the petitioner.

GURMIT RAM, J.

1. This revision petition is preferred by the petitioner (tenant) against the order dated 14.05.2012 passed by the learned Rent Controller, Dhuri vide which the ejectment petition filed by the respondent (landlord) under Section 13 of East Punjab Rent Restriction Act (in short “the Act”) for the ejectment of the petitioner (tenant) from the demised shop was accepted and judgment dated 11.10.2013 passed by the learned Appellate Authority, Sangrur vide which the appeal of the present petitioner (tenant) filed against the abovesaid order of the learned Rent Controller, Dhuri was dismissed.

2. The case of the respondent-herein (landlord) before the learned

Rent Controller in concise was that the demised shop was the ownership of his father namely Sunder Singh, which he had inherited after his death in an oral family settlement. Petitioner (herein) was inducted as tenant in the demised shop w.e.f. 12.10.1987 on rent at the rate of ₹500/- per month vide a rent note. He sought the ejectment of the tenant from the demised shop on the ground of arrears of rent since he did not pay the rent w.e.f. 01.02.1989 and also for the reason that he requires the said shop for his personal necessity to run jewellery business. Earlier he was serving as Boiler Superintendent in Guru Gobind Singh Super Thermal Plant, Ropar and retired on 31.07.2008. Hence was the instant petition.

3. On notice respondent appeared and took preliminary objections that the petitioner has concealed the material facts from the Court and that alleged rent note is under-stamped and unregistered. Then it is admitted that he took the demised shop on rent from the petitioner at the rate of ₹500/- per month which was enhanced from time to time to the tune of ₹960/- per month and house tax at the rental value of ₹3,600/- per annum. He had paid the said rent upto 31.07.2009 and house tax upto 31.03.2011. It is further his case that the respondent (landlord) did not issue any receipt regarding payment of rent. It is denied that the respondent (landlord) requires the demised shop for his personal necessity to run the jewellery business. Rest of the allegations were also denied by the petitioner (tenant).

4. The learned Rent Controller after hearing the learned counsel for both the parties and going through the record as well recorded its findings on all the issues in favour of the respondent (landlord) and ordered

the ejectment of the petitioner (tenant) from the demised shop by accepting the ejectment petition vide the impugned order dated 14.05.2012.

5. The tenant feeling aggrieved from this order filed an appeal before the learned Appellate Authority, Sangrur which was dismissed vide impugned judgment dated 11.10.2013. The present petitioner (tenant) being aggrieved from the findings recorded by both the Courts below has come up in the instant revision petition.

6. I have heard the learned counsel for the petitioner and have also gone through the record minutely.

7. Learned counsel for the petitioner has contended that it is the case of the respondent (landlord) that originally one Sunder Singh was the owner of the shop in dispute, but no documentary evidence to prove this fact was brought on the file. Then it is further his contention that as per the claim of the respondent (landlord) he got the demised shop in an oral family settlement effected amongst his brothers, but no documentary evidence to prove the same also was brought on the file.

8. But in the case in hand, it is admitted by the present petitioner (tenant) that he took the demised shop on rent from the respondent (landlord). When the tenant has been admitting that he is in possession of demised property as a tenant under the respondent (landlord), then he has no right to deny his title. Since the tenancy has been admitted in this case, so there is no need to lead any evidence with regard to the ownership of Sunder Singh qua demised shop. Same is the position with regard to the alleged oral family settlement as pleaded by the respondent (landlord).

9. Then it is further contended by the learned counsel for the

petitioner (tenant) that in the case in hand, the respondent (landlord) has claimed the arrears of rent for the period of 21 years on the plea that the petitioner (tenant) has not paid the rent of the demised shop w.e.f. 01.02.1989. In this regard it is also his contention that no landlord will wait for such a long time to seek the ejectment of any tenant from the demised premises on the ground of non-payment of arrears of rent. In the case in hand the respondent (landlord) is an educated person and retired from Guru Gobind Singh Super Thermal Plant, Ropar as Boiler Superintendent. So, as such the above contention of the learned counsel for the petitioner (tenant) is held to be worthwhile. Moreover it does not appeal to any common prudence that a landlord will wait for a period of 21 years to seek ejectment of the tenant from the demised premises on the ground of non-payment of rent. So as such in the case in hand, the respondent (landlord) cannot claim arrears of rent for a period of more than 3 years from the date immediately prior to the filing of the ejectment petition. Moreover the arrears of rent beyond the period of more than 3 years become barred by time. So this contention of learned counsel for the petitioner (tenant) is disposed of accordingly.

10. Then it is further contended by the learned counsel for the petitioner (tenant) that in the case in hand, it was the case of the respondent (landlord) that he is neither owner nor in possession of any other shop within the Municipal Limit of Dhuri, which is wrong being against the record. In this connection it is further his submission that from the bare perusal of the heading of the ejectment petition, it is clearly established that the respondent (landlord) has two more shops other than shop in dispute,

i.e. one on its southern side and second one on its western side. In this regard he has also referred to the site plan Ex.R2 proved in the statement of RW-2 (Kashmir Singh Dhindsa). But it is not sufficient to hold that respondent (landlord) is owing two more shops other than demised shop within the municipal limit of Dhuri. In order to establish the same, petitioner (tenant) was to summon the record from the office of Municipal Council Dhuri with regard to the said two shops, which he did not do. Then it is also found mentioned in para No.9 of the judgment of the learned Appellate Authority that due to clerical mistake, on the western side it is mentioned as the shop of the petitioner, rather it is the shop of Hardev Singh who is one of the brothers of the present respondent (landlord).

11. Then it is also on the record that present respondent (landlord) is having two brothers namely Sukhdev Singh and Hardev Singh. So the above contention of learned counsel for the petitioner (tenant) is held to be not tenable and same is declined.

12. It is admitted case of the parties that earlier the present respondent (landlord) was serving in Guru Gobind Singh Super Thermal Plant, Ropar and retired therefrom as Boiler Superintendent on 31.07.2008. Now he has no business to do and requires the demised shop to run the jewellery business to make his both ends to meet. He has supported his case as AW-2 vide his affidavit Ex.AW2/A, which is further corroborated by AW-3 in the shape of his affidavit Ex.AW3/A. Exhibit-A3 is the pension payment order and Mark-A is retirement order of respondent (landlord). Exhibit-A2 is the rent note of the demised shop which was allegedly executed by the petitioner (tenant) in favour of the respondent

(landlord). There is nothing on the record to say that plea of alleged personal necessity of the demised shop on the part of respondent (landlord) is either mala fide or tainted one with any ulterior motive. It is settled law that Rent Controller should proceed with the presumption that the requirement as pleaded by the petitioner is bona fide one. Herein the case law as laid down in *Sarla Ahuja vs. United India Insurance Company Ltd. 1998(2) RCR 533 (SC)* is followed. Then there are some case laws of this Court with regard to the personal necessity of the landlord as laid down in *Narinder Kumar Dureja vs. Jugraj Singh Kang 2014(2) RCR (Civil) 631* and *Gulshan Kumar Jain vs. Neena Jauhar and others 2014(4) R.C.R. (Civil) 968*. In these case laws it has been held that landlord is the best judge of his personal need/requirement, tenant is nobody to dictate any term to his/her landlord with regard to his alleged personal requirement of the demised premises.

13. There is nothing on the file to hold that the findings recorded by both the Courts below are either perverse or are recorded without the basis of any evidence. Findings recorded on all the issues are found to be correct.

14. In the light of the above discussion, it is held that except for the modification with regard to the period of arrears of rent mentioned in para No.9 of this judgment, the remaining revision petition is held to be meritless and as such, it stands dismissed and disposed of accordingly.

March 23, 2015

Gaurav Sorot

**(GURMIT RAM)
JUDGE**