

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 4912 of 2016 (O&M)
Date of Decision : 03.08.2016

Bhupinder Singh and others

....Petitioners

Versus

Amrik Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. C.L. Pawar, Advocate
for the petitioners.

Surinder Gupta, J.

This is revision against the orders passed by Rent Controller, Phagwara and Appellate Authority, Kapurthala whereby petition under Section 13 of East Punjab Rent Restriction Act, 1949 filed by landlords-respondents, Amrik Singh and Mohan Singh, was allowed and revision petitioners were directed to vacate the demised premises on the ground of personal *bona fide* need of landlords-respondents.

2. Landlords-respondents projected the need of demised premises for their personal *bona fide* necessity as follows:-

“iii) Applicants/landlords require the shop in dispute for starting business for Indrejit Singh son of Mohan Singh, who is married. The said son of Mohan Singh has grown up and completed his studies. They are able to open new shops for earning their livelihood and they want to be self reliant. Further applicants stated that above said son has not to do any work at present. Applicants themselves run Halwai shop near the old Loha Mandi road and there is no scope for the applicants to get adjusted their children in the same shop. The present premises in dispute is situated within the market and there is good scope of Sweet business. Further applicants stated that all the three shops are of small size. They have filed

ejection petition against other tenants also. Further applicants stated that they have not any suitable accommodation for fulfilling the requirement of their children. Applicants have not got vacated any building or layout any building within the last six months from the day of filing of the present petition.”

3. Revision petitioners contested the plea of landlords-respondents qua projecting their need for demised premises with the plea that they do not require the shop in dispute for starting any business. Inderjit Singh, for whom the shop is sought to be vacated, is already doing business of sweet at the shop owned by landlords-respondents at Loha Mandi Road, Phagwara which is a big shop and having a lucrative business. Landlords-respondents have four more shops on G.T. Road with *chaubaras*, which are in their possession. They also have other residential building of 12 *marlas* in their possession in front of the shop in dispute. Shops in possession of landlords-respondents are more than enough for their business.

4. On appraisal of evidence, learned Rent Controller observed that there is sufficient evidence on file to prove that the shop in dispute is required for their personal *bona fide* necessity for starting business for Inderjit Singh.

5. On appeal, Ist Appellate Court also discarded the plea raised by revision petitioners and affirmed the findings recorded by the Rent Controller.

6. Learned counsel for revision-petitioners has argued that personal *bona fide* need for the shop in dispute has been projected for Mohan Singh, who is not owner of the demised premises, as such, cannot get the same vacated. He has further argued that Amrik Singh owns four other

shops, out of which one is lying vacant, which can be used by Inderjit Singh

son of Mohan Singh to start his business. There is one more property measuring 12 *marlas* owned by Davinder Kaur wife of Amrik Singh, which is in front of the shop in dispute and landlords-respondents, if so desire, can utilize the same for starting business of sweet shop for Inderjit Singh.

7. On giving a careful thought to submissions of learned counsel for revision petitioners, I find no weight therein so as to agree with him.

8. Before the Rent Controller this fact was admitted that respondents are owners of the premises in dispute. The observations to this effect made in para 5 of order passed by Rent Controller are reproduced as follows:-

“5. *It was admitted that the petitioners are the owners of the premises in dispute. However, there are other owners also of the shop in question. It was pleaded that originally Lachman Singh and Puran Singh took the shop on rent from Mohan Singh. Lachman Singh and Puran Singh were doing the business under the name and style of Lachman Singh and Puran Singh. Lachman Singh died on 30.04.1991 and after his death, respondent no. 1 Bhupinder Singh being his son and respondent no. 2 being wife of Lachman Singh and other legal heirs of Lachman Singh i.e. daughters of Lachman Singh became tenants in the shop alongwith Puran Singh. It was denied that respondent no. 3 is a firm or is a tenant. The petitioners no. 1 and 2 threatened to dispossess the legal heirs of Lachman Singh and Puran Singh forcibly from the shop and then Bhupinder Singh and Bimla Rani filed a suit for injunction against the petitioners no. 1 and 2 restraining them to dispossess them forcibly. In the said suit, the petitioners took a plea that Lachman Singh and Puran Singh is a firm which was rejected by the Hon'ble Civil Court. It was held that M/s Lachman Singh Puran Singh is not a firm and Bhupinder Singh and Bimla Rani*

were held to be tenants being heirs of Lachman Singh. The said civil suit no. 100 dated 22.04.1997 was decided on 19.12.1997 and the petitioners are bound by the said judgment.”

9. In view of above observations, this argument of learned counsel for revision petitioners that the shop in dispute is not owned by Mohan Singh has no basis. Amrik Singh while appearing as AW-1 has denied that he and Mohan Singh have purchased four shops at Sadhu Ram Colony, Phagwara. These shops were, however, in his possession. Regarding other property of 12 *marlas* in front of disputed shop, evidence has come on record that same is residential house owned by Davinder Kaur wife of Amrik Singh. Inderjit Singh son of Mohan Singh has grown up and he is married. Landlords-respondents want to settle him in business and have chosen the business for him in which he already has experience. In these circumstances, it is for the landlords-respondents to choose the premises which are suitable for the business they intend to start. While choosing premises for a particular business location, area, size of the premises, population nearby and many other facts weigh in the mind of a person. It is a well known fact that a particular business may be suitable in one locality or market but a failure in the other locality/market. The tenant in such circumstances has no role either to suggest or even to propose the suitability of any other premises in possession of the landlord by raising plea that the premises in possession of landlord can be used for a particular business. Both the Courts have elaborately discussed all the pleas raised by tenants-petitioners and have committed no error of law while reaching conclusion that the demised premises is required by landlords-respondents for their personal *bona fide* necessity to settle Inderjit Singh son of Mohan Singh.

10. Scope of interference in the revision against concurrent findings of authorities under the Rent Act is quite limited. In case of **Hindustan Petroleum Corporation Ltd vs. Dilbahar Singh, 2014(9) SCC 78**, Hon'ble Supreme Court has observed as follows:-

“We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or

irregularity.”

11. Applying the ratio of judgment in above referred case, I find no reason to differ with conclusions, drawn by learned Rent Controller or Appellate Authority, which are based on evidence on record and call for no different conclusion to be drawn.

12. As a sequel of my discussion above, I find that orders of authorities under the Rent Act suffer from no legal infirmity calling for any interference in this revision, which has no merit.

Dismissed.

August 03, 2016
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No