

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

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Civil Revision No.6408 of 2016 (O&M)
Date of Decision: October 22, 2016

Jatinder Guleria

...Petitioner

Versus

Lachhman Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Naresh Prabhakar, Advocate
for the applicant-petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for setting aside the order dated 09.07.2015 passed by the Rent Controller, Ludhiana, whereby the petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the 'Rent Act'), preferred by the respondent-landlord for eviction of a hall and shed measuring 18 feet x 75 feet out of the Plot No.3 B-XXX situated at Street 1, Jiwan Nagar, Ludhiana, has been accepted on the grounds of personal necessity of the son of the respondent namely Parminder Singh, appeal against which preferred by the petitioner has been dismissed by the Appellate Authority, Ludhiana, on 12.07.2016, upholding the order passed by the Rent Controller.

2. It is the contention of learned counsel for the petitioner that the basic ingredients of Section 13 of the Rent Act have not been pleaded as it has not been specifically mentioned that the son of the respondent does not occupy or has vacated the premises other than the one in possession of the petitioner-tenant. He has relied upon the judgment of the

Hon'ble Supreme Court in the case of *Ajit Singh and another Versus Jit Ram and another* 2008(2) RCR (Rent) 328 and the judgment of this Court in *Shankar Lal Versus Madan Lal and others* 2011(1) RCR (Rent) 139. His further contention is that it has not been mentioned and so stated that he owns and possesses other properties also in Ludhiana, what has been pleaded in the eviction petition is that he does not own or possess any other commercial property. He accordingly asserts that the impugned orders passed by the authorities below cannot sustain and deserve to be set aside.

3. I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the impugned orders as also the pleadings and the cross-examination which has been reproduced by him in the grounds of revision.

4. It is not in dispute that the petitioner was rented out the premises for commercial purposes and he has been using the same for the said purpose since the date of the tenancy. It is also not in dispute that what has been pleaded in the eviction petition is that the respondent does not own or possess any other commercial building within the municipal limits of Ludhiana nor has he vacated any such building after coming into operation of the Rent Act. Since the property in dispute which is the demised premises was rented out for commercial purposes and was being used for the said purpose, the pleadings as has been made in the eviction petition, would fulfil the requirement of the statute.

5. As regards the contention of the counsel for the petitioner that it has not been pleaded that the son of the respondent namely

Parminder Singh does not own or possess any other commercial property nor has he vacated any such building after coming into operation of the Rent Act, the said plea cannot be accepted in the light of the fact that Parminder Singh has appeared as a witness before the Rent Controller and has deposed specifically with regard to the said aspect that he does not own or possess any non-residential building in Ludhiana. He has been cross-examined but no information has been solicited in this regard, which would dent upon the veracity of the assertions made by him. The plea, therefore, of the counsel for the petitioner by relying upon *Ajit Singh's case (supra)* and *Shankar Lal's case (supra)* would not be of any help to the petitioner in the light of the Full Bench judgment of this Court in *Banke Ram Versus Shrimati Sarasvati Devi 1977 (1) RCR (Rent) 595*.

6. Apart from this, it has been submitted by the counsel for the petitioner that the respondent has not disclosed about he being in possession of the other properties apart from the one which was in possession of the petitioner but that plea cannot be accepted as admittedly the other properties which are owned and possessed by him or occupied by tenants are purely residential properties and are being used for the said purpose only. That being so, the findings as recorded by the authorities below being based upon proper appreciation of the pleadings and the evidence apart from the legal position, do not call for any interference by this Court in exercise of its revisional jurisdiction.

7. In view of the above, finding no merit in the present revision petition, the same stands dismissed.

8. In the light of the dismissal of the petition, the application for stay i.e. CM No.19607-CII of 2016, stands disposed of as infructuous.

October 22, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No