

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

**Civil Revision No.7058 of 2016 (O&M)
Date of Decision:December 06, 2016.**

Mohammad Rasheed

.....PETITIONER(s).

VERSUS

Ahmed Din and another

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Mohd. Yousaf, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

Rent Controller, Malerkotla upheld the plea of respondent No.1-landlord that he required the demised shop for his personal bona fide necessity to settle his elder son Mehar Din, who was unemployed and intended to start *Kiryana* business in this shop and ordered ejectment of revision petitioner-tenant from demised shop by allowing the application under Section 13 of East Punjab Urban Rent Restriction Act, 1949 (later referred to as 'the Rent Act') filed by respondent No.1-landlord. Appellate Authority, Sangrur dismissed the appeal filed by the revision petitioner and upheld the finding of the Rent Controller.

2. Learned counsel for the revision petitioner has assailed the findings of the Rent controller and Appellate Authority on two grounds; firstly that petitioner has not mentioned in his petition that his son is

dependent on him and has relied on the observations in *Amrita Pal Johal*

Vs. Baldev Raj 2014(2) R.C.R. (Civil) 943, wherein it has been held that in the absence of statement of landlady that her son and grand son were dependent on her, the ejectment petition under Section 13-B of the Rent Act cannot succeed. Secondly, son of the respondent No.1-landlord for whose requirement the demised premises has been sought to be vacated is admittedly living separate from his father and is having his own business. He has relied on the statement of respondent No.1-landlord to this effect recorded by the Rent Controller.

3. On giving a careful thought to the submission of counsel for the revision petitioner, I find no merit therein calling for any interference in the order passed by the Rent Controller and the judgment of the Appellate Authority. Reliance of learned counsel for the appellant on observations of this Court in case of ***Amrita Pal Johal Vs. Baldev Raj (supra)***, is misplaced as in that case, the petition was filed by an NRI under Section 13-B of the Rent Act. The observations in para 6, extracted below, will make the things clear:-

“In this case, the petition was filed only at the instance of the lady, who required the property for her own need. If the petition could be prosecuted by a legal representative, it must be by a person, who was ordinarily living with and dependent on her. Consequently, if the original landlord himself or herself was not alive to prosecute the case and the property was required for the purpose of the person ordinarily living with him or dependent on him, both factors would require to be proved: (i) that the person who was prosecuting the case was a person who was ordinarily residing with the NRI and (ii) he was dependent on him. We have already extracted the averment in the petition and I have also gone through the affidavit. There is no

statement anywhere that the son or the grandson was dependent on the landlady. The petition must fail for what the statute expressly requires and what it fails to bring out.”

4. It is required under Section 13-B of the Rent Act that in case of Non-resident Indian, the need should be for the petitioner or for the use of any one ordinarily living and dependent on him or her. This requirement is not prescribed under Section 13 of the Rent Act. Even otherwise, no fault can be found with the wish of the father, who wants to settle his son, aged 28 years in business. In the Indian society, parents/grand parents always wish to settle their son/grand son during their life time. Respondent No.1-landlord, in this case, has similar pious wish.

5. On plea raised before the Rent Controller and Appellate Authority that the son of respondent No.1-landlord namely Mehar Din was living separately and it was observed as follows:-

“He has admitted in his cross-examination that all his sons are doing their business and that Mehar Din is living separately from him for the last 3-4 years and is doing his own business. The present petition was filed on 03.04.2008, where the statement of landlord was recorded on 22.01.2015. From this statement, it is proved that at the time of filing of the petition, Mehar Din was residing with his father and was unemployed. The admission of the landlord does not prove that his need is not bona fide.”

6. Respondent No.1-landlord has four sons and Mehar Din, aged 28 years, was eldest. It cannot be accepted that till final order on the ejectment petition, he will keep on waiting and will do no business to look

after his family, which grows with the passage of time and if the son of petitioner has started living separate, may be for any reason, including the reason of short accommodation with the landlord, it cannot be held that the landlord need not settle them in life.

7. On perusal of the order of Rent Controller and judgment of Appellate Authority, I find no legal or factual infirmity therein calling for any interference.

8. This revision petition has no merits. Dismissed.

(SURINDER GUPTA)
JUDGE

December 06, 2016.

Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***