

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

C.M. NO.21982 CII OF 2016 (O&M)

CIVIL REVISION NO.7212 OF 2016

DATE OF DECISION: NOVEMBER 22, 2016

Kulwinder Singh

.....Petitioner

VERSUS

Smt.Amarjit Kaur and another

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R. S. Bajaj, Advocate,
for the petitioner.

Mr. Sudeep Mahajan and
Ms. Manjit Saini, Advocates,
for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Notice of motion.

Mr.Sudeep Mahajan, Advocate, counsel for the caveator-
respondents accepts notice.

Petitioner has approached this Court, assailing the order dated
21.07.2015 passed by the Rent Controller, Amritsar, whereby the
application for ejectment under Section 13 of the East Punjab Urban Rent
Restriction Act, 1949 has been allowed on the ground of bonafide personal
necessity of the respondent-landlady and the appeal preferred against the
same by the petitioner has been dismissed by the Appellate Authority,
Amritsar, on 19.08.2016.

It is the contention of learned counsel for the petitioner that the eviction petition, which has been preferred by the respondent-landlady, should have been against M/s Satnam Singh Kulwinder Singh, a partnership firm, as the tenancy admittedly was with the said firm. Merely because Satnam Singh had died, would not result in dissolution of the partnership firm, especially when the legal heirs of deceased Satnam Singh had stepped into his shoes and the partnership firm had continued thereafter. He, thus, contends that the eviction petition against Kulwinder Singh was not sustainable. Another submission, which has been made by counsel for the petitioner, is that the respondent-landlady is already running her Guest House on the Ist Floor of the demised premises and, therefore, she was not having any personal necessity of the same. The eviction petition has only been filed with an intention to oust the petitioner from the demises premises. He, on this basis, prays that the present revision petition may be allowed by setting-aside the impugned judgements.

Mr. Sudeep Mahajan, learned counsel, on the other hand, states that on the demise of Sh.Satnam Singh, one of the partners of the firm, partnership firm does not continue and it stands dissolved. Even if the legal representatives of deceased Satnam Singh join hands with Kulwinder Singh, it will be a new partnership firm and, therefore, it cannot be said that the relationship of landlord and tenant continued with the firm as such and the eviction petition, as preferred by the respondent-landlady, is in accordance with law as the demised premises continued to be in possession of Kulwinder Singh. That apart, he contends that it is an admitted position that the Ist floor of the premises is being used as a Guest House and the bonafide personal necessity, as projected by the respondent-landlady is that she

requires the ground floor for setting up a reception, which is not viable on the Ist Floor. In any case, he contends that it is a settled proposition of law that the landlord is the best judge with regard to his needs, necessities and requirements, which cannot be dictated by the tenant. He submits that the Courts below have rightly proceeded to decide the matter on the basis of pleadings and the evidence led by the parties as also the law, which do not call for any interference and the present revision petition deserves to be dismissed.

I have considered the submissions made by learned counsel for the parties and with their assistance have gone through the impugned judgements.

The first contention of learned counsel for the petitioner that the partnership firm continued to be the tenant despite the death of Satnam Singh, one of the partners of the firm because the legal heirs have been lateron joined as partners cannot be accepted as it is a settled proposition of law that if any of the partners dies in a partnership firm, the firm ceases to exist. If the legal heirs have joined the partnership, it would be a fresh partnership and, therefore, the findings as recorded by the Courts below that the eviction petition is maintainable against Kulwinder Singh, who admittedly is in possession of the demised premises, cannot be faulted with.

As regards the contention of learned counsel for the petitioner that the demised premises is not required by the respondent-landlady as she, at present, is running her business from the Ist Floor i.e. the Guest House, suffice it to say that ample evidence has been led by the respondent-landlady, proving her bonafide necessity with regard to the requirement of the ground floor as admittedly the reception is on the Ist Floor, which is not

viable and the requirement of the ground floor for the said purpose, in any case, is much more beneficial for running the business of Guest House. The findings, thus, as recorded by the Courts below on this count as well, in the light of settled proposition of law that the landlord is the best judge of his requirements, needs and necessities, which having been proved, cannot be dictated by a tenant, as in the present case.

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

Since the main revision stands dismissed, C.M. No.21982 CII of 2016 for staying the dispossession of the petitioner from the premises in dispute is also dismissed.

**November 22, 2016
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No