

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

**CM-601-CII-2016 in/and
CR-8020-2015 (O&M)
Date of decision: 13.01.2016**

AMAR SINGH SAINI

.... Petitioner

VS

SUKHCHARANJIT KAUR

.... Respondent

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

Present: Mr. Anoop Singla, Advocate
for the petitioner.

AUGUSTINE GEORGE MASI, J.(Oral)

CM-601-CII-2016

Prayer in this application for pre-poning of the main case which is listed for hearing on 01.03.2016 on the ground that the execution proceedings have been initiated and notice has been issued to the applicant-petitioner.

For the reasons mentioned in the application, the same is allowed. Hearing of the main case is pre-poned for today and the same is taken on board.

CR-8020-2015

Challenge in this revision petition is to the order dated 21.04.2015 passed by the Rent Controller, Moga, whereby, the ejectment petition preferred under Section 13 of the East Punjab Rent Restriction Act, 1949 by the respondent-landlord was allowed, appeal against which preferred by the petitioner-tenant has been dismissed by the Appellate Authority, Moga on 19.09.2015.

It is the contention of the learned counsel for the petitioner that the eviction petition which has been filed by the respondent has not been filed bonafidely what to say of her personal necessity. He asserts that a plea has been taken that the rent has not been paid by the petitioner since June, 2010 till 31.03.2012 in the ejectment application, but as a matter of fact when the respondent intended to forcibly dispossess the petitioner, he filed a suit for permanent injunction where it has been stated by her in her written statement that she had received rent from the petitioner from March, 2010 till March, 2012. He thus contends that the respondent has not approached the Court with clear hands and therefore is not entitled to relief granted by the Courts below.

As regards the bonafide necessity of the respondent-landlord is concerned, counsel contends that she admittedly is a resident of United States of America and was working there and has retired but she has not come to India except for the day when the petition was filed and at the time when she was leading her evidence. She is not intending to stay here and the plea of the bonafide requirement, personal necessity, as has been projected by the petitioner, is merely with the purpose to get the shop evicted from the petitioner. In any case, he contends that two adjacent shops have already been got vacated and the first floor of these shops being already vacant, there is sufficient accommodation available with her for the purpose of starting her business of cosmetics and general store. Accordingly, he contends that the impugned order can be set

aside and the application for ejectment filed by the respondent-landlord may be dismissed.

I have considered the submissions made by the learned counsel for the petitioner and with his able assistance have gone through the impugned orders.

The application for ejectment was filed primarily on two grounds, first, the non payment of rent. The said aspect having been dealt with by the Courts below indicates that the amount has been duly paid from March, 2010 to March, 2012 and for the subsequent period the rent was tendered in Court alongwith interest on 10.09.2013 rendering the said ground to be no more available for eviction. The plea of learned counsel for the petitioner that a wrong averment has been made by the respondent-landlord about the rent having not been paid by the petitioner which disentitles her to the claim in the eviction petition. This plea would be of help to the petitioner if the ground for passing eviction order would have been non payment of rent but in the present case, the order of eviction has been passed against the petitioner on the ground of the personal necessity of the respondent-landlord.

It is not in dispute that the respondent-landlord Sukhcharanjit Kaur was working in United States of America and has retired from her job. She has categorically stated that she wanted to set up a departmental store for cosmetics and general goods on the ground floor of the building after demolishing all the four shops. It was also stated that she is already in possession of two shops

located on the western side as shown in the site plan (Ex. A-3). The remaining two shops are being sought to be vacated out of which one is with the petitioner and the other is with another tenant Jai Parkash against whom also proceedings for eviction are pending.

The plea of the learned counsel for the petitioner that she has sufficient accommodation available for starting her departmental store in the form of two vacant shops and the first and second floor of the disputed building, the said plea cannot be accepted in the light of the categorical statement of the respondent-landlord that she intends to demolish all the four shops and reconstruct and convert the area into a departmental store on the ground floor. The need and necessity as has been projected by the respondent-landlord cannot be said to be not bonafide or not justified. In any case as per the settled law, it is the wish and will of the landlord to assess the requirement with regard to the accommodation required for starting a particular business which conclusion has rightly been drawn by the Courts below. Reliance is placed upon judgments passed by this Court i.e. (i) 2011(3) Law Herald (P&H) 2589 (P&H), (ii) 2009(3) Punjab Law Reporter 693 (P&H) and (iii) 2012(Supp.) Latest Judicial Reports 508 (P&H), is fully justified as these judgments would be applicable to the case in hand.

There being no illegality in the impugned orders which would call for any interference by this Court, the present revision petition stands dismissed.

January 13, 2016

**(AUGUSTINE GEORGE MASIH)
JUDGE**