

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

CR No.1190 of 2013(O&M)

Date of Decision:-24.07.2017

M/s Sushma Medicos & Anr.

.....Petitioners.

Versus

Abdul Gaffar & Anr.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. N.S. Shekhawat, Advocate for the Petitioners.

Mr. Aman Bahri, Advocate for respondent no.1(landlord).

JASWANT SINGH, J. (ORAL)

Petitioners (subletees) i.e. tenants nos.2 & 3 are in revision directed against the order dated 04.01.2013 passed by the learned Appellate Authority, Chandigarh whereby an eviction order has been passed against the two petitioners along with tenant no.1-Narinder Kumar Pandey on the grounds of personal necessity and subletting by tenant no.1 to the petitioner-tenant nos.2 & 3.

The admitted facts are that the Shop-cum-Residence (SCR) No.85, Phase-II, Ram Darbar, Chandigarh was allotted to Nisar Ahmad by the Chandigarh Administration. The front portion of SCR No.85 measuring 12 x 15 were let out to Narinder Kumar Pandey vide rent agreement dated 17.4.1995 at the rate of Rs.2500/- per month. Thereafter subsequent rent notes were executed and lastly on 01.02.2002 and the rent fixed was

Rs.4,000/- per month. Upon the death of Sh. Nisar Ahmad on 12.12.2003, his son Abdul Gaffar and widow Hasina became the landlords of the demised premises. It is the case of the landlords that Narinder Kumar Pandey had subletted the demised premises to his brother's wife i.e. *Bhabhi-Sushma* widow of Rajinder Pandey who was operating the sole property under the name and style of M/s Sushma Medicos in the demised premises. The landlords on 2.4.2008 filed an eviction petition against the original tenant as well as the subletees on the grounds of non payment of rent and personal necessity of Abdul Gaffar to run his painting shop. The Rent Controller vide judgment dated 17.12.2010 dismissed the eviction petition on both the grounds. However, the learned Appellate Authority, Chandigarh vide judgment dated 04.01.2013 allowed the eviction petition on both the aforesaid grounds. It is stated that Smt. Hasina has also died during the pendency of the proceedings before the lower Appellate Authority leaving behind Abdul Gaffar as the only legal heir.

This Court on the prayer for arriving at an amicable settlement with the landlord had issued notice of motion vide order dated 20.02.2013 while staying the dispossession of the petitioners from the demised premises.

Respondent no.2 Narinder Kumar Pandey stood served but nobody had caused appearance on his behalf. It is the case of the petitioners that Narinder Kumar Pandey, who is none else than the brother-in-law of the petitioner no.2 had surrendered exclusive possession of the demised premises with the petitioner-firm. They had also filed a joint written statement and were represented through the same counsel. It is also the case of the parties that it is the petitioners, who had tendered rent for the demised

premises and was accepted by the respondent(landlord).

Having failed to convince the Court on merits, learned Counsel for the petitioners on instructions from his clients prays for some reasonable time to vacate the premises to which learned Counsel for the respondent no.1(landlord) has no objection.

In view of the aforesaid agreed stand, this petition is dismissed as not pressed, however, one year time commencing w.e.f. 01.08.2017 is granted to the petitioners-tenants for making alternative arrangement subject to their furnishing an undertaking on or before 09.08.2017 before the Court of learned Rent Controller, Chandigarh, that they shall hand over actual physical vacant possession of the demised premises to the respondent landlord by 31.07.2018. The undertaking shall also state that the entire arrears of rent, if any, at the previous rate have been cleared and that petitioners shall continue to pay the rent in advance by 7th of each calendar month at the rate of Rs.4000/- per month till 31.07.2018.

Needless to say that any violation of the terms shall entitle the landlords to seek his eviction forthwith with police help, if necessary without recourse to any other remedy besides the petitioner-tenants making himself liable in contempt proceedings.

(JASWANT SINGH)
JUDGE

July 24, 2017
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>