

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

**Civil Revision No.1738 of 2014 (O&M)
Decided on : 26.04.2017**

Pawan Kumar

... Petitioner

Versus

Ram Piari and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Ms. Aarti Gupta, Advocate
for the petitioner.

Mr. G.C. Dhuriwala, Advocate
for the respondents.

G.S. Sandhawalia, J.

The petitioner-tenant challenges the order dated 19.02.2011 in revision petition filed, whereby ejectment has been ordered from the shop in question on the ground of bonafide requirement by the Rent Controller, Dhuri. The said order having been upheld on 09.01.2014 in appeal by the Appellate Authority, Sangrur is also under challenge.

The authorities below found that the bonafide requirement as such of the petitioner-landlady stood proved, wherein possession was sought on the ground that she was a Diploma Holder in the Needle Work i.e. Sewing and Knitting and having retired as a Teacher from the Arya Senior Secondary School, Dhuri required the premises in question to start her own boutique.

The contention that the husband was in possession of another shop, which had been got vacated one year back was repelled by the Appellate Authority on the ground that petition has been preferred on 05.08.2006 and was decided only on 19.02.2011 and no effort has been

made that the issues have not been properly framed. Sufficient material had come on record in the form of the facts that the husband was also already retired and he was doing the business of property dealing and had been unemployed after superannuation and having no work.

A perusal of the paper-book would go on to show that apparently there was three shops in question and one shop was in possession of one Dharam Pal and another shop was in possession of her husband which was part of the residential house and merely because one shop had been got vacated during the pendency of the eviction petition would not as such eclipse the need of the landlady. It was also noticed that the present petitioner had already purchased a shop in a building just opposite the shop in dispute. Resultantly, the bonafide need of the landlady was held to be genuine, since she was a retired teacher and had the requisite qualification of the business which she wanted to open, which was tailoring and embroidery work. Keeping in view the principle that the landlady is the best judge of her own needs, the eviction was accordingly, ordered.

Initially, when notice of motion was issued on 27.05.2014, it was on the limited purpose for exploring the possibility of settlement and in case the respondents wanted to permit the petitioner to be retained as a tenant on payment of prevailing market rent, which was stated to be ₹500/- per month.

A period of more than 3 years has gone by since then the petitioner continues in the possession on the same terms and conditions.

Counsel for the respondents submitted that the landlady requires the premises and, therefore, the said possibility of settlement does not arise. The petition had been filed at that point of time on account of upcoming retirement as the landlady was to retire on 31.08.2006. Necessary ingredients had been duly pleaded and the defence was that there was a tenancy with one Dharam Pal and the shop was previously occupied by one Gurmeet Singh and who had vacated in February, 2006 and the bonafide aspect had been questioned.

The landlady who had appeared herself as AW-4 had clarified that her husband was doing the business and shops were part of the residential house. She had denied the fact that Gurmeet Singh had vacated the shop and same had been rented to Bhinder Rani and the allegations had not been admitted.

The findings which have been recorded by the authorities below are on the basis of settled principle that the landlady is the best judge of her needs, specially keeping in view the fact that it has also come on record that the tenant has also purchased a shop in a building just opposite to the shop in dispute, but still wants to hold on the possession of the premises in question for the reasons best known to him.

As noticed that possession has continued for more than 3 years on the pretext that rent would be enhanced, but it was never got settled *inter se* the parties. Resultantly, this Court is of the opinion that there is no illegality or irregularity in the orders passed by the authorities below, which ordered ejectment on bonafide requirement. The

proceedings have dragged on for over a decade and at the cost of the landlady and counsel for the petitioner has not been able to show that the orders passed by the authorities below were not justified, which would warrant interference by this Court in the revisional jurisdiction.

It is settled principle that this Court is not sitting as a Court of second appeal which would re-examine the evidence for the third time. The said view has been laid by the Constitutional Bench of the the Apex Court in '**Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh**' **2014 (9) SCC 78**. The relevant observations read as under:-

“45. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or

propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

Accordingly, the present revision petition stands dismissed.

APRIL 26, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

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