

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

CR No.5181 of 2015(O&M)

Date of Decision:-19.09.2017

**Kapoor Diesel Service, Shop No.5, C-78, Industrial Area, Phase-6,
Mohali through Proprietor Sh. Karan Kapoor.**

.....Petitioner.

Versus

Sukhjit Singh & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Ravi Kant Sharma, Advocate for the Petitioner.

Mr. Ashwani Kumar Sharma, Advocate for respondent no.1.

JASWANT SINGH, J.(ORAL)

Petitioner (tenant) is in revision, aggrieved against the concurrent findings returned by the Authorities below, whereby his eviction has been ordered from Shop No.5, C-78, Industrial Area, Phase-6, Mohali on the ground of personal necessity of the respondent-landlord by the learned Rent Controller, SAS Nagar, Mohali vide judgment dated 25.5.2014 and the findings thereof were affirmed by learned Appellate Authority, Mohali vide judgment dated 02.03.2015.

Learned Counsel for the petitioner has argued that both the Authorities below have failed to appreciate the fact that the respondent (landlord) has connived with the GMADA officials in order to procure the order of resumption dated 12.05.2011 passed by Assistant Chief

Administrator, PUDA as per which, due to violations done by the landlord in the demised premises, property is being resumed. However, it has been argued that no such violation was made by the petitioner (tenant) and in fact it is novel method of getting the tenant evicted from the shop because it was the landlord who had raised the unauthorised construction himself and thereafter let out the premises in question.

On the other hand learned Counsel for the respondent has argued that in the present case, even if it is presumed, although denied vehemently that the landlord had raised illegally construction, still a notice from the GMADA authorities would itself entail the landlord to seek eviction of the tenant on the ground of personal necessity, so as to remove the building violations and avoid resumption of the building. To support his plea, he has relied upon **2014 (2) RCR (Rent) 319 Anil Kumar Ahuja & Anr. Vs. Anurag Bansal.**

After hearing learned Counsel for the parties and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and deserves to be dismissed.

The relationship of landlord and tenant has not been disputed amongst the parties. It is further not in dispute that the respondent (landlord) was allotted the premises in question. However, the dispute is as to whether the respondent -landlord is entitled to seek eviction of the petitioner (tenant) on the ground that since resumption order has been passed for alleged violation in the demised premises, he intends to take back the possession of the property and demolish the said illegal construction. Qua this aspect, this Court is of the opinion that the respondent (landlord) is well within its rights to seek such an eviction because there cannot be a

bigger necessity than losing his property due to same being resumed on account of building violation. In case property is resumed, landlord would loose his ownership and therefore to avoid such a situation, landlord is well within his right to seek the eviction. Mere fact that respondent-landlord has failed to prove that these violations were made by the tenant would not disentitle him from seeking the relief on the ground of personal necessity because it settled position of law that there cannot be any estoppel against law. The said observation is further fortified from the judgment passed by a Co-ordinate Bench of this Court in Anil Kumar Ahuja's case (supra) wherein under similar circumstances this Court had allowed the Civil Revision filed by the landlord against the concurrent findings of the Authorities below, whereby his eviction petition was dismissed. The relevant paragraphs of said judgment are reproduced as under:-

“ There seems to be element of correctness in what the learned counsel for the respondent has propounded but this reasoning would be restricted to the personal necessity plea raised by the landlord for use and occupation of the family members to run a business. It would still not rob the petitioners of the first ground where their property is confronted with a peril of resumption, which fact has actually taken place by virtue of the order, which was shown to the Court and taken on record as Mark 'A'. This order dated 21.10.2011 indicates that SCF No. 54, Sector 15, Faridabad, the demised premises has been resumed.

As observed earlier that in the eventuality of the landlords being confronted with the peril of losing their

premises to the Local Authorities on account of violations which they intend to remove to protect their property, then such a case would also be construed to be a genuine need requiring eviction of the tenants so that the petitioners can take appropriate steps in this regard. ”

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

September 19, 2017
Vinay

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