

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

**Civil Revision No.7705 of 2012 (O&M)
Decided on : 09.05.2017**

Charanjit Singh Walia @ Pappu

... Petitioner

Versus

Manjeet Kaur

... Respondent

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

Present : Mr. Parminder Singh-I, Advocate
for the petitioner.

Mr. R.S. Randhawa, Advocate
for the respondent.

G.S. Sandhawalial, J.

The present revision petition is directed against the order dated 16.11.2012 (Annexure P-1) passed by the Rent Controller, Ludhaina, whereby eviction has been ordered under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the Act') after full fledged trial and taking into account the evidence which was produced. The respondent-landlady herself stepped into witness-box and also examined her husband who was the co-owner. Apart from them, one Krishan Kumar was also examined to prove the plea of bonafide requirement of the shop in question, which was shown as red colour in the site plan and was part of the building B-XXIV-1108, Gaushala Road, Chowk Tajpur, Ludhiana.

The Rent Controller noticed that the necessary ingredients of the ownership for a period of 5 years prior to the filing of the petition were in place, since the sale deed in question was of 18.10.1996 and the

petitioner was instituted on 13.01.2009. The landlady was an NRI and was settled in USA, since 1998 and fell under the definition as defined under Section 2 (dd) of the Act and on account of her need as such and the fact that she wanted to return to India and required the premises eviction has duly been ordered.

Counsel for the petitioner submits that the landlady was owner of 150 square yards of the property in question, which is of 300 square yards and the sale deeds Ex.A-4 and A-6 would go on to show the said fact and, therefore, partition not having been effected, the eviction was not justified.

The said argument does not deserve much consideration. The petition was filed by the landlady on account of the said sale deed in her favour and plea taken was that shop No.9 was taken on rent from her, which was part of the building. She wanted to start her business of boutique and was also seeking ejectment from the other tenants in the building and separate petitions had been filed against them. The petitions regarding shop No.2, 4 and 5 were stated to be pending.

The tenant admitted that the petitioner and her husband Raghbir Singh are owners of the part of the building to the extent of their own share and tenanted premises were taken from Raghbir Singh in the presence of Mohinder Singh and he was running New Walia Tempo Union and payment of rent was being made in the presence of the said person.

Once the co-owner, her husband had also appeared and

supported his wife and in view the of settled principle of law that co-owners can seek eviction and in the present case the consent of the other co-owner being available, objection raised that the property is not partitioned, is without any basis. The husband and wife are jointly owners of the total property measuring 300 square yards and even if the property was let out by the husband, keeping in view the law laid down by the Division Bench in '**Bachan Kaur and others Vs. Kabal Singh and another**' 2011 (1) RCR (Rent) 368, the NRI landlord is entitled to seek eviction of tenant from the building in question, even if it was let out by any person on behalf of the NRI landlord.

The Rent Controller has also examined the sale deeds Ex.A-4 and Ex.A-6 and the fact that the husband is also NRI and there was an admission that both of them were owners and resultantly by placing reliance upon the judgment of the **Lakhwinder Kumar Vs. Pavitter Kaur (dead) through L.Rs** 2010 (1) RCR 589, ejectment has rightly been ordered. The defence that a sum of ₹1 lakh had been taken as security from the respondent and as per agreement was liable to be returned to the tenant was held to be untenable since there was nothing on record to show that any such amount was taken. The fact that the tenant had no means to make any such payment, has also come forth in the cross-examination of the tenant.

The findings, thus, which have been recorded by the Court below are well justified, in view of the principles laid down by the Apex Court in **Baldev Singh Bajwa Vs. Monish Saini**' 2005 (4) RCR 492 SC,

the three Judges Bench judgment in *Swami Nath vs. Nirmal Singh, 2010 (10) SCR 1002* and in *Kamaljit Singh Vs. Sarabjit Singh' 2014 (4) PLR 828*.

Resultantly, there is no error as such in the well reasoned order passed by the Rent Controller, on the basis of the deposition of landlady herself. Accordingly, this Court does not feel that it is a fit case for interference under the revisional jurisdiction.

Accordingly, the present revision petition is dismissed.

MAY 09, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No