

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

**C.R. No.1258 of 2009 (O&M)
Date of Decision.31.08.2018**

M/s Oberoi Timber Traders

.....Petitioner

Vs

Narbir Singh and another

.....Respondents

2. C.R. No.3070 of 2009 (O&M)

M/s R.K. Traders

.....Petitioner

Vs

Narbir Singh and another

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. M.L. Sarin, Senior Advocate with
Ms. Hemani Sarin, Advocate
for the petitioner in C.R. No.1258 of 2009.

Mr. Arun Nehra, Advocate and
Mr. Sant Kashyap, Advocate
for the petitioner in C.R. No.3070 of 209.

Mr. Arun Jain, Senior Advocate with
Mr. Arnav K. Sood, Advocate
for the respondents.

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AMIT RAWAL J.

This order of mine shall dispose of two civil revisions bearing Nos.1258 of 2009 titled as “M/s Oberoi Timber Traders Vs. Narbir Singh and another” (hereinafter called the 1st revision petition) and 3070 of 2009 titled as “M/s R.K. Traders Vs. Narbir Singh and another” (hereinafter called the 2nd revision petition) preferred by the tenants against the concurrent finding of fact whereby the eviction petition preferred by the respondent-landlord for personal necessity

has been allowed by the Rent Controller and upheld by the lower Appellate Authority.

The respondent-landlord instituted the Rent Petition bearing No.78 of 1999 titled as “Narbir Singh and another Vs. M/s Oberoi Timbers Traders (hereinafter called as the 1st rent petition) and Rent Petition No.13/A of 1999 titled as “Narbir Singh and another Vs. M/s R.K. Traders” (hereinafter referred to as the 2nd rent petition). In both the rent petitions, eviction of the petitioners-tenants was sought on the grounds namely; (i) arrears of rent since 1979 @ ₹800/- per month plus house tax; (ii) personal necessity of the premises i.e. the premises in question was taken on rent for using it as a vacant land and (iii) damaged the premises and had thus, diminished the value of the property by raising the construction without consent of the landlord.

The aforementioned rent petitions were contested by the petitioners-tenants by raising numerous preliminary objections denying the rate of rent and stated that rate of rent was ₹300/- per month, which had been already held to be at the aforementioned rate in the previous round of litigation. The landlord had sought arrears of rent on the ground of personal necessity for commercial purposes, which was not maintainable. The rent petitions were without cause of action and the ground of personal necessity was merely a whimsical desire. On merits, it was stated that rent @₹300/- had already been tendered. The factum of raising construction was emphatically denied. The factum of termination of tenancy was also not admitted.

In the written statement of 1st rent petition, it was also stated that

earlier the premises was a partnership firm and on account of death of one of the partners Smt. Sushila Oberoi, the respondent-Kamal Oberoi became the sole proprietor. In the 2nd rent petition, it was stated that initially the premises were under the proprietorship of one Raj Kishore Bansal and as he was not keeping good health, one Ajay Katyal was inducted as partner. After the death of Raj Kishore Bansal, his legal representatives gave no objection in favour of Smt. Kanta Bansal widow of Raj Kishore Bansal to become partner in the respondent-firm and thereafter vide partnership deed dated 15.4.1999, Smt. Kanta Bansal, Ajay Katyal and Raj Kumar Bhagat became partners of the respondent firm.

The landlord filed the replication and denied the averments made in the written statement. The factum of death of one of the partners i.e. Smt. Sushila Oberoi was replied in the manner that intimation qua the same was not given to the landlord.

In both the rent petitions, the Rent Controller framed the following issues:-

“1. Whether the respondent is liable to be ejected from the premises in dispute as described in para No.1 of the petition? OPA

2. Whether the rent @ ₹ 300/- p.m. was decided by the court of the premises in question? OPR

3. Whether the petition of the petitioner is false, frivolous and vexatious? OPR

4. Whether the petitioner has no cause of action and locus standi to file the present petition? OPR

5. *Whether the petitioner has concealed the true and material facts from this Hon'ble Court? OPR*
6. *Whether the respondent has tendered the rent for 38 months of premises in question? OPR*
7. *Whether the agreed rent of the tenanted premises is ₹ 300/- instead of ₹ 800/- p.m.? OPR*
8. *Relief."*

In support of his case in the 1st rent petition, the landlord-petitioners i.e. Narbir Singh and Harbir Singh examined themselves as PW-1 and PW-2 respectively and closed the evidence. On the other hand, tenants examined Kamal Oberoi as RW1 and tendered copy of judgment as Ex.RX.

In the 2nd rent petition, the landlord-petitioners examined themselves as PW-1 and PW-2 respectively and tendered documents Ex.P1 to Ex.P7 and Mark A whereas the respondents-tenants examined Ajay Katyal as RW1, Amit Arora as RW2 and Ashok Goyal, Ahlmad of the Court as RW3 and tendered documents Ex.R1 to R3 and documents Ex.D1 to D5 consisting affidavits and cross examination of landlords in another petition titled as "Narbir Singh and another Vs. M/s Oberoi Timer Traders".

On the preponderance of evidence, the Rent Controller rejected the contentions of the tenants and ordered ejectment and the appeal laid before the Appellate Authority by the tenants was also dismissed.

During the pendency of the 1st revision petition, following misc. applications have been filed for placing on record

subsequent events.

C.M. No.5672-CII of 2009 to bring on record the ejectment order passed M/s R.K. Traders dated 14.02.2009 as Annexure A-4.

C.M. No.18742-CII of 2009 for producing on record additional evidence as Annexure A-8 i.e. the ejectment order dated 12.10.2002 passed by the Appellate Authority, Faridabad arising out of a rent petition filed by respondent No.1 & 2 against one tenant M/s Vishwakarma Heat Treatment Plant wherein the appeal preferred by the tenant aforementioned against the ejectment order passed by the Rent Controller was dismissed but no revision petition had been filed to contend that the landlord had already been in possession of an area double the one which has been possessed by the tenant i.e. M/s Vishwakarma Heat Treatment Plant and therefore, the need no longer survives nor any bona fide subsisted, for, no amendment of the ejectment application has been sought.

C.M. No.13409-CII of 2010 for bringing on record the subsequent events that the plot measuring 156'x46' i.e. 7176 sq. feet=797.33 sq. yards was one plot away from the plot in dispute and proved that landlord owned this plot, which had earlier been given on rent to M/s Jangjeet Enterprises, which had been running a gas agency. The aforementioned tenant had vacated the said area and shifted somewhere else, which factum is evident from the photographs Annexures A-9 to A-11. The landlord had already demolished the godown as evident from the photographs Annexure A-12, therefore, the need is not bona fide.

Reply was filed in the aforementioned application whereby it was denied that M/s Jangjeet Enterprises had vacated the premises in their possession but alleged that one Ashok Kasana, who was running Jangjeet Enterprises had entered into partnership deed with one Madhulkar Sharma and they were running business under the name and style of Capital Brokers, thus, the possession was still with the tenants. Along with aforementioned reply, Annexures R-1 to R-3 i.e. partnership deed dated 17.2.2010, photographs showing the board of the Capital Brokers etc. were placed on record. Annexures A-9 to A-11 were disputed for not showing the correct factual aspect. The execution application was still pending.

C.M. No.26092-CII of 2015 has been filed for placing on record subsequent events with regard to same very plot of Jangjeet Enterprises to contend that the landlords owned two more plots opposite the premises in dispute and they are successfully running a marriage palace under the name and style of Basant Vatika. Photograph thereof has been attached as Annexure A-16 and the ownership is reflected through the jamabandi and site plan, annexed as Annexure A-15. It was averred that the ejectment order was passed against the Vishwakarma Heat Treatment Plant on 12.10.2002 but the execution application was filed after 10 years on 3.5.2012. The execution application has been placed on record as Annexure A-17 as the landlord had no requirement. Narbir Singh has two sons, one is working and settled abroad while the another is working with a company in Delhi NCR. Harbir Singh has one son and one daughter. His son is settled abroad and daughter is married. Therefore, there is

no requirement for children at all.

The aforementioned application has been duly replied by contesting that the same had been filed for causing delay in adjudication of the revision petition for the possession was stated to be of Jangjeet Enterprises. It was averred that landlord can file the affidavit of another partner of the firm-Capital Brokers to prove physical possession of the same. It was also averred that the plots mentioned in the aforementioned application were acquired by the State of Haryana in view of notification under Section 4 of the Land Acquisition Act, 1894 on 12.06.2000 but the same has been challenged by filing CWP No.13433 of 2001, which is stated to be pending. The personal necessity is to use the area of three premises which are part of one single plot as the plans were sanctioned from the District Town Planner and it is for that reason, the execution application was not filed. Vis-à-vis the children, it was replied that sons of the respondents have been employed on temporary basis and want to start business according to their needs. The tenant, Vishwakarma Heat Treatment Plant has allegedly handed over the possession to one Daya Inder Auto, who is contesting the execution application.

Mr. M.L. Sarin, learned Senior Counsel assisted by Ms. Hemani Sarin appearing for the petitioner in C.R. No.1258 of 2009 submitted that the aforementioned subsequent events leaves no manner of doubt that necessity of the landlord was a whimsical desire and figment of imagination. There is no compliance of statutory provisions of Section 13 (3)(b) of the Haryana Urban (Control of

Rent & Eviction) Act, 1973 (hereinafter called as 1973 Act) where there is mandatory requirement of law for the landlord to state in the petition that in the case of rented land, if he requires it for his own use, had not occupied in the urban area concerned for the purpose of his business any other rented land or not vacated such rented land without sufficient cause.

In order to buttress his arguments, he placed reliance upon sub-section 4 of Section 13 that the decision of the rent petition would be based on satisfaction of the Rent Controller, if the claim of the landlord has been found to be bona fide. However, in the instant facts disclosed in the aforementioned applications coupled with the non-compliance of the provisions of the 1973 Act, personal necessity no longer subsists.

The landlord had not approached the Rent Controller with clean hands, for, rent claimed was @₹ 800/- per month knowing very well that the decision of the Civil Suit the rate of rent was found to be ₹300/- per month. The findings of the Courts below are contrary to the pleadings.

Harbir Singh in his cross-examination admitted that they had given a plot on rent to Jangjeet Enterprises (Gas Agency), which is one plot away from the premises in dispute, therefore, the landlords had not come to the Court with clean hands. His cross-examination further revealed that he had been running his office in the plot in which Jangjeet Enterprises was tenant but on the other hand, he alleged that he was doing a job and had no place to operate his business. Similarly, Narbir Singh admitted that he had been doing

business since the year 1980, thus, the statements and affidavits given in the second rent petition i.e. M/s R.K. Traders vs. Narbir Singh and others were necessary and essential for proper adjudication of the *lis* and thus, preferred an application for additional evidence. Another application for additional evidence to place on record statement of Kamal Oberoi given in the Civil Suit No.317 of 23.10.1982 was filed before the Appellate Authority but the same was dismissed on the alleged reasoning that the contents of the application were silent, in other words, were neither here nor there.

The landlords failed to amend their ejectment petition, which is essential requirement of law. In order to lend support to the aforementioned arguments vis-à-vis amendment, subsequent events and non-compliance of statutory provisions, laid reliance to the following case laws:-

A. Non-compliance of statutory provisions of 1973 Act.

- (i) **Banke Ram Vs. Smt. Sarasti Devi 1977 RLR 417**
- (ii) **Kewal Krishan VS. Smt. Janki Devi 1981 (2) RLR 605**
- (iii) **Onkar Nath Vs. VEd Vyas 1979(2) RLR 226**
- (iv) **Manmohan Lal Vs. Shanti Parkash 2014 (2) RCR (Rent) 222.**

B. Amendment

- (i) **Maqboolunnisa Vs. Mohd. Saleha Quaraishi JT 1998 (9) SC 40** to contend that in the absence of pleadings as to non-possession of any other residential premises and also non-vacation would be fatal to the ground of personal necessity.

(ii) On similar lines referred to **Sadhu Ram Verma Vs. Pawan Kumar 2006(2) RCR 95.**

It was also contended that case law on the point of bona fide necessity to be seen at the time of filing, is no longer a good law, in view of the ratio decidendi culled out by Hon'ble Supreme Court in **Prabha Arora and another Vs. Brij Mohini Anand and others 2007 (2) RCR 600** as the subsequent events can always be looked into for adjudication of the controversy.

On the other hand, Mr. Arun Nehra and Mr. Sant Kashyap, learned counsel appearing for the petitioners in 2nd revision petition adopted the arguments raised in the 1st revision petition and supplemented further raising the plea that rent petition in M/s Vishwakarma Heat Treatment Plant was filed on 15.09.2001. The landlord was confronted with the aforementioned fact in examination-in-chief. Civil Misc. Application No.21711-CII of 2013 was filed to bring on record jamabandi to show ownership that the landlord is owner of 3 acres of land. No notification under Section 4 or 6 of the Land Acquisition Act has been placed on record and factum of running of the marriage palace was not denied. Reliance was laid to judgment of Hon'ble Supreme Court in **Hasmat Rai and another Vs. Raghunath Prashad AIR 1981 SC 1711** by submitting that where the landlord filed a suit for recovery of possession of small shop on the ground of personal requirement and other portion had fallen vacant against which the landlord had already obtained decree for eviction but had not obtained possession, the High Court can always take into consideration the subsequent event and reject the rent petition on this

ground alone.

On the other hand, Mr. Arun Jain, learned Senior Counsel assisted by Mr. Arnav K. Sood, appearing for the respondents-landlords submitted that it is a big plot where three tenants had been inducted and Jangjeet Enterprises against whom possession had been obtained only in the year 2017 as he had inducted another tenant, who filed objections in the execution application. The petitioners-tenants cannot be permitted to raise the pleas of non-compliance of the requirement of statutory provisions of law, non-maintainability or on some other ground, as no objection of such nature had been taken in the written statement nor any issue in this regard was framed, therefore, the plea taken for the first time in the revision petitions cannot be entertained. There was no occasion for the Rent Controller or the Appellate Authority to deal with such contentions. The landlord had been facing wrath of tenants for the last 20 years and it is very difficult to bring amendment application owing to subsequent events i.e. owing to lapse of time. Jangjeet Enterprises is still occupying property and the necessity has to be seen only from the date of filing of the petition.

In support of aforementioned contentions, he submitted that the landlord cannot be permitted to sit idle as sought to be projected and has to do something for his living. The finding of fact arrived at by the Rent Controller and the Appellate Authority cannot be interfered with in view of the judgment rendered by the Constitutional Bench of Hon'ble Supreme Court in **Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh (2014) 9 SCC 78;**

2014 (4) RCR (Civil) 162 to contend that where the High Court is required to be satisfied that the decision is according to law, it may examine whether the impugned order suffers from a procedural illegality or irregularity and not otherwise. M/s British Motor Car Company Pvt. Ltd. Vs. Sewak Sabha Charitable Trust (Regd) 2003 (2) RCR (Rent) 606 to contend that similar provisions vis-à-vis vacation and non-occupation of the premises have been enacted in the East Punjab Urban Rent Restrict Act, 1949 and while discussing the Full Bench, it has been held that where the parties had already understood each other's case and necessary evidence was adduced, technical ground of omission to plead requirement in specific terms cannot be a ground for non-suiting the landlord. On similar lines referred to judgment of this Court rendered in Vishal Garg Vs. Kanwaljit Kaur and others 2011 (1) RCR (Rent) 389. In Yadvendra Arya and another Vs. Mukesh Kumar Gupta (2008) 2 SCC 144; 2007(2) RCR (Rent) 675, while interpreting the personal necessity in the UP rent laws, the Hon'ble Supreme Court held the need to be bona fide where the landlord had passed High School examination and was unemployed but did not want to join the business along with his father but wanted to do his independent business. In the instant case also, similar plea had been taken, which had been accepted by both the Authorities below.

The tenant cannot dictate the terms to the landlord vis-à-vis the suitability of the requirements. The Authorities below have to sit in the arm chair of the landlord to ascertain the personal necessity, thus, the personal need cannot be said to be mala fide but was bona

fide. In this regard, referred to various judgments on similar lines, which I need not to cite in order to avoid repetition but would like to refer to case law in *Atma S. Berar Vs. Mukhtiar Singh (2003) 2 SCC 3; 2003(1) RCR (Rent) 42* where the landlord had offered to sell his house to the tenant but thereafter, changed his mind to shift to India as he was living in Canada, the need was held to be bona fide, thus, urges this Court for upholding the findings and dismissing the revision petitions.

I have heard learned counsel for the parties, appraised the paper book, records of the courts below, judgments cited at bar and of the view that there is no force and merit in the submissions of Mr. Sarin and Mr. Nehra for the following reasons:-

(i) It would be in the fitness of things to reproduce Section 13 (3) (b) of the Haryana Urban (Control of Rent and Eviction) Act, 1973:-

“13(3)(b) in the case of rented land, if he requires it for his own use, is not occupying in the urban area concerned for the purpose of his business any other rented land and has not vacated such rented land without sufficient cause after the commencement of the 1949 Act.”

On plain and simple reading of the aforementioned provisions, it is evident that the landlord is required to incorporate the ingredients of non-occupation and vacation of the building. On going through the rent petition, no doubt, there is no such averment, but the fact

of the matter is that no such objection qua maintainability on the aforementioned ground has been taken in the written statement. In such circumstances, I am of the view that the tenant cannot be permitted to take the plea of non-compliance of the requirements.

(ii) The various application for placing on record the additional evidence/subsequent events, as noticed above, though, in the first blush look attractive that the need of the landlords qua personal necessity survives as on close examination of contents of reply as well as site plan placed on record, it has not been denied by either of the parties that it is a big plot, which has been converted into three portion and let out to three tenants i.e. M/s Oberoi Timbers, M/s R.K. Traders and Jangjeet enterprises.

(iii) Both the parties apprised this Court that adjudication of the matter with regard to determination of mesne profits attained finality by the Hon'ble Supreme Court whereby both the tenants have been directed to pay the amount @ ₹ 30,000/- per month.

(iv) The necessity, which has been applied for is in respect of the big plot let out to aforementioned three tenants against whom all the three eviction petition had been filed. There is force in the submissions of Mr. Jain that possession with regard to Vishwakarma Heat Treatment Plant was not taken as the site plan purported to have been submitted to the District Town Planner in

respect of the entire plot. Vis-à-vis the portion in occupation of the Vishwakarma Heat Treatment Plant, the possession had been taken only in the month of December, 2017 and the reasons for not filing the execution application was that other petitions were pending and the decision was awaited.

(v) Time and again question with regard to personal necessity of the landlord had been a matter of debate and pondered upon by the various High Court and the Hon'ble Supreme Court and it has been consistently held that the tenant cannot dictate terms of personal necessity to the landlord unless and until, case of mala fide and desire to be whimsical had been proved. The subsequent events, thus, in my view will not be able to destabilize the necessity of the landlord as for adjudication of the *lis*, the Courts have to sit in the arm chair of the landlord and not that of the tenant. It is not the case of the tenant that after seeking eviction of the premises, the landlord has let out the premises to some other third tenant. Had it been so, perhaps the need would have been mala fide. The possession with regard to Jangjeet Enterprises (gas agency) which has not yet been taken, as per averments in the reply as during the course of hearing, reference was made to affidavit (Annexure A-13) filed by one Ashok Kasana to the effect that he had been operating the business of distributorship of Indane under the name

and style of M/s Jangjit Enterprises and he had allegedly handed over the possession to the landlord in the year 2009. In reply to specific averment made in the affidavit, it has been averred that the affidavit filed by the tenant was incorrect whereas he had let out to Capital Brokers, who had been in physical possession of the plot and a statement had been made at bar on behalf of Mr. Jain for appointment of local commissioner to ascertain the aforementioned factual aspect. The partnership deed is of the year 2010 whereas the affidavit is of 2015. For the sake of brevity, relevant paragraphs 6 and 10 of the reply to C.M. No.26092-CII of 2015 are extracted as under:-

“6. That the contents of the para No.6 of application are wrong, incorrect and vehemently denied. It is vehemently denied that the partnership deed dated 17.2.2010 attached with the earlier reply was false and fabricated. The respondents are still receiving the rent of the said premises and can even file the affidavit of another partner of the firm Capital Brokers to this effect who is in physical possession at site. It is further submitted that the partnership deed was placed on record in 2010 and now after 5 years the petitioner is coming up with a procured affidavit of one of the partner of the firm to claim that the

possession was already handed over without saying anything in the affidavit regarding the veracity of the partnership deed. The fact of the matter remains that the respondents are still not in possession of the demised premises. It is further submitted that the affidavit annexed as Annexure A-14 has no relevancy with the facts and circumstances of the case and the same has only executed with the intention to create false evidence.

10. That the contents of para No.10 of application are wrong, incorrect and vehemently denied that the respondents have not intentionally filed the execution petition to get the possession of the plot with Vishwakarma Heat Treatment Plant. First of all, the personal necessity of the respondents is to use the area of three premises which are part of one single plot i.e. present demised premises, demised premises in C.R. No.3070/2009 and the premises which was in occupation of Vishwakarma Heat Treatment Plant. All these premises are adjacent to each other. Plans have been got passed by the respondents from the District Town Planner (E)-cum-Chairman Building Plan Committee to use these three plots together. Secondly, the eviction order passed

against the said tenant was ex parte and the respondents were advised by their counsel to wait for a period of time before filing execution application. Thirdly, Vishwakarma Heat Treat Plant, tenant has allegedly handed over possession of considerable part of the premises to Daya Inder Auto who is resisting execution application. The respondents have been straight forward through out the present litigation but the petitioner are devising new method to delay the present proceedings by filing frivolous applications in the garb of new facts which are already there on record. The law as settled by Hon'ble Court is that the landlord is the master of his needs and the tenant cannot dictate terms to the landlord.”

In para 45 of the **Hindustan Petroleum Corporation Ltd.'s case** (supra) , the Hon'ble Supreme Court has held 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.”

From perusal of the aforementioned finding, it has been held that none of provisions of Haryana Rent Control Act entitled the High Court to interfere with the finding rendered by 1st Appellate Authority on the appreciation of evidence. It is confined only where there is illegality or irregularity. The subsequent events and the aforementioned arguments do not fall in the aforementioned expressions. In my view, decisions rendered by the Courts below are perfectly correct and do not suffer from jurisdictional error as well.

There is no dispute to the judgments cited at bar particularly with regard to the non-compliance of the statutory provisions as has been held in **Banke Ram's case** (supra) but in the absence of objection, the tenants cannot be permitted to raise this plea and therefore, the argument of Mr. Sarin and Mr. Nehra on this account is hereby rejected.

Further in **M/s British Motor Car Company Pvt. Ltd.'s** case (supra), it has been held that where the parties have been alive to the situation and led evidence with regard to pleadings, the tenant cannot be permitted raise this objection for the first time. For the sake of brevity, relevant paragraph No.10 is reproduced as under:-

“10. Thus, the plea that the landlord has failed to plead necessary ingredients is without any substance. Both the parties have led extensive evidence regarding the requirement of the premises. Parties have understood the case of personal necessity very well. It has been held by Hon'ble Supreme Court in Baba Kashinath Bhinge v.

Samast Lin-gayat Gavali and Ors., 1995 H.R.R. 131 that where the parties properly understood each other case and necessary evidence was adduced, technical ground of omission to plead requirement in specific terms cannot be a ground of non-suiting the landlord Trust on technicalities. Recently in [P. Purushottam Reddy and Anr. v. Pratap Steels Ltd.](#) 2002(2) S.C.C. 686 the Supreme Court has reiterated the well know principle that where the parties have understood the case, led evidence, the non framing of issues or lack of pleading is inconsequential. In view of the said judgment reliance of the petitioner on [Commissioner of Income-tax v. Ahmedabad New Cotton Mills Co. Ltd.](#) A.I.R. 1930 Privy Council 56 and [Bhagat Singh and Ors. v. Jaswant Singh](#), A.I.R. 1966 Supreme Court 1861 that no amount of evidence can be looked into on a plea which was never put forward is not sustainable in law.”

I cannot remain unmindful of the fact that the tenant cannot acquire the status of ownership and has to vacate the tenanted premises as and when the necessity of the landlord arises instead of compelling him to undergo the rigmarole of protracted litigation. The present cases were instituted in the year 1999 and it has been almost 18 years that the landlords have to wait for restoration of possession in accordance with law.

As regards amendment of pleading, I am of the considered opinion that the aforementioned subsequent events placed

on record incongruity with the relevant paragraphs of the reply as extracted above, leads to irresistible conclusion that need of the landlord is bona fide. Therefore, there was no need for amendment of the pleadings as the parties to *lis* had been alive.

As an upshot of my finding, there is no illegality and infirmity in the orders of the Rent Controller and the Appellate Authority as well as the additional evidence/subsequent events placed on record do not come to the rescue of the petitioners to enable this Court to form a different opinion than the one already formed. No ground for interference is made out.

Both revision petitions are dismissed. The petitioners-tenants are directed to vacate the premises within a period of two months from the date of receipt of certified copy of this order.

(AMIT RAWAL)

JUDGE

August 31, 2018

Pankaj*

Whether Reasoned /Speaking Yes

Whether Reportable No