

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

CR No.1161 of 2018 (O&M)
Date of decision: 15.05.2018

Ram Gopal (Deceased) thr LRs

... Petitioners

Versus

Gurdev Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Divanshu Jain, Advocate for the petitioners.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against concurrent findings recorded by the Courts whereby application under Section 13 of the East Punjab Urban Rent Restriction (Extension to Chandigarh) Act, 1974 (in short 'the 1974 Act') filed by the respondent seeking eviction of the petitioner (since deceased) represented by his LRs was allowed by the learned Rent Controller vide order dated 22.09.2017 and the order passed by the Rent Controller came to be affirmed by the Appellate Authority, Chandigarh vide order dated 12.12.2017.

The eviction has been allowed on the ground of *bona fide* personal need of the respondent and his son to start a nursery on the land in question as well as land in occupation of another tenant namely Devi Singh.

The sole submission made by counsel for the petitioner is that

as the respondent has other land in his occupation which is lying vacant, need projected by the respondent is not *bona fide* and the eviction application is liable to be dismissed by setting aside the orders passed by the Courts. Counsel for the petitioners also made half hearted attempt to argue that the premises in question does not fall within the limits of Municipal Corporation, Chandigarh, therefore, provisions of the 1974 Act cannot be invoked for seeking eviction of the petitioners under Section 13 thereof.

I have heard counsel for the petitioners, perused the paper book particularly the orders impugned.

Before adverting to the submissions made by counsel for the petitioners, it is necessary to advert to the averments raised by the respondent with regard to requirement of the premises in question by the respondent and his son. A relevant extract from para 4 of the eviction application is quoted thus for ready reference:-

“That the demised premises under occupation of the respondent is required for bonafide personal use and occupation by the petitioner because son of the petitioner namely Sh. Pargat Singh wants to run nursery in the demised permises under occupation of the respondent. In fact the said Pargat Singh requires one killa land for running nursery. The premises under occupation of the respondent is suitable for the business of nursery because it is situated just near the motor market of Sector 38 (West) Chandigarh and the other side of the land on which the said son of the petitioner

wants to run nursery is situated adjoining the dividing road of Sector 38-A and village Shahpur (Sector 38 West) However, there is another tenant namely Devi Singh towards the dividing road of Sector 38-A and village Shahpur (Sector 38 West) against whom the petitioner is also filing an ejectment petition because the whole land of one killa is required for running nursery by the son of the petitioner which included the land under occupation of the respondent and said Devi Singh another tenant. There is already a bagh of the petitioner in the said land, however, the petitioner is also running cattle/dairy business and is sowing crops in some of the land. There is no other agricultural land in possession of the petitioner in the urban area of Chandigarh except the said land of the petitioner situated at Village Shahpur, UT Chandigarh which falls in the urban area of Chandigarh.”

In para 6 sub para ii, it has been averred that said son of the petitioner is not in possession of any other premises/land in the urban area of Chandigarh. The petitioner is not having any other land or suitable premises in the urban area of Chandigarh except the said land of the petitioner in village Shahpur, UT Chandigarh. The son of the petitioner is dependent on the petitioner for the purpose of accommodation and to meet other needs. Neither the petitioner nor his said son are occupying any other similar suitable premises nor has vacated any such premises after enforcement of the East Punjab Urban Rent Restriction Act in the urban area of Chandigarh.

Gurdev Singh, the respondent-landlord appeared in the witness box to establish his plea with regard to *bona fide* personal need of the premises in question. In the opening lines of his cross examination, he has deposed to the following effect:-

“That the land in question is situated in village Shahpur, Grewal, Farm. It is an agricultural land. We cultivate the land and crop is grown, besides there is litchi orchard and mango orchard and there is milk dairy also. We have cattle's also for whom we have earmarked one killa. Total land is 2 killa i.e. 4 bighas 16 biswa in each killa. I can produce fard on next date of hearing.”

Counsel for the petitioners has failed to point out any materials on record that any part of land owned by the respondent is lying vacant much less the same is suitable for doing the work of nursery. The respondent has explained in the petition itself as to how the land in occupation of the petitioner represented by his LRs and Devi Singh is suitable for doing the business of nursery being adjacent to motor market Sector 38 (west), Chandigarh and dividing road of Sector 38-A and village Shahpur. The respondent has complied with the requirements of Section 13 (3)(ii)(a) of the Act. It is pertinent to mention here that the respondent filed another eviction application against aforesaid Devi Singh and the same was allowed by the Courts. Devi Singh filed a revision petition before this Court but the same has been disposed of vide order of even date and the order of eviction passed against Devi Singh has been affirmed and he has

been given time to vacate the premises in his occupation on the basis of consensus recorded by counsel for the parties. Taking into consideration the materials on record discussed hereinbefore, contention raised by counsel for the petitioners that need of the respondent is not *bona fide* and genuine is devoid of merit and liable to be rejected.

So far as plea that the premises in question does not fall within the Municipal limits of Chandigarh, the same has been answered against the petitioner by the Courts in view of notification issued by UT Administration whereby village Shahpur in which the land in question is situated has been covered within the area of Municipal Corporation, Chandigarh. Counsel is not in a position to challenge correctness of factual findings of the Courts that the demised premises falls within Municipal limits of Municipal Corporation, Chandigarh, therefore, the premises in question falls within the purview of 1974 Act.

No other point has been raised.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

No order as to costs.

15.05.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No