

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

**CR No.2679 of 2018 (O&M)
Date of Decision:24.09.2018**

Ravinder Kumar

...Petitioner

Versus

Raj Dulari

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Nakul Sharma, Advocate for the petitioner.
Mr. Namit Gautam, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The tenant-petitioner is in the revision petition against the order passed by the learned Rent Controller, ordering eviction of the tenant for the bonafide requirement of the son of the landlady, affirmed in the appeal by the Appellate Authority.

Learned counsel for the petitioner has raised four following arguments:-

- (i) Complete details of the property owned by the landlady have not been given;
- (ii) Previous litigation was filed for arrears of rent on the ground of non-payment of rent, which was withdrawn;
- (iii) Krishan Kumar, the son, has also filed a separate petition in which order of eviction has been passed but appeal is pending;
- (iv) Landlady as well as her son have admitted that lay out plan produced is not depicting their entire property.

As regards complete details, landlady, while filing a petition,

disclosed that there is one shop on the ground floor i.e. shop in question and two shops on the first floor, which are in possession of a Barber. She further disclosed that there is a Shop No.78 in Bazar No.4, Ferozepur Cantt, where her husband is running a Coffee shop. She further disclosed that Krishan Kumar is also owner of Shop No.76 in Bazar No.4, which is in possession of the tenant. When she appeared in evidence and was confronted with the fact that there is another premises adjoining the shop in dispute, she disclosed that the aforesaid premises was earlier used by a bank for ATM purpose but now it is being used for garage.

In the considered opinion of this Court, details, as required under the East Punjab Urban Rent Restriction Act, 1949 (for short 'the 1949 Act'), have been given in the petition. A premises which is not to be used for commercial purposes and is being used only for garage, but not disclosed in the petition, cannot be the ground to dismiss the petition.

As regards previous petition, it is admitted position on the record that previous petition was filed only complaining non-payment of rent. The bonafide necessity was not one of the ground pleaded in the previous litigation. Once non-payment is tendered pursuant to an order of provisional assessment, nothing survived in the aforesaid petition, therefore, it has been withdrawn. The tenant cannot take benefit of filing of the previous petition.

As regards another shop available to the son Krishan Kumar, it will be noted that Krishan Kumar has also filed a petition for eviction of the tenant, which is still pending.

Learned counsel for the petitioner has read the judgment passed

by the learned Rent Controller in the aforesaid case, the requirement as pleaded in the another petition is not same as is being pleaded in the present petition.

As regards the argument that lay out plan attached does not depict the entire detail, it will be noted that there is no requirement of the 1949 Act that a lay out plan is to be attached. Still further, lay out plan has been attached, which discloses the commercial property owned by the landlady. Further, landlady or her son has never stated that lay out plan attached is not correct. It was for the tenant to prove that the lay out plan attached is not correct.

In view of the above, there is no ground to interfere. The present revision petition is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

24.09.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No