

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

**Civil Revision No.284 of 2018 (O&M)
Date of Decision:March 28, 2018.**

Sushil Verma and another

.....PETITIONER(s).

VERSUS

Loveleen Chahal and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arun Jain, Senior Advocate with
Mr. Chetan Salathia, Advocate
for the petitioner (s).

Mr. Vikas Bahl, Senior Advocate with
Mr. Divanshu Jain, Advocate
for the respondent No.1.

SURINDER GUPTA, J.

Loveleen Chahal respondent-landlord filed application under Section 13 of East Punjab Urban Rent Restriction Act, 1949 (later referred to as 'the Rent Act') for eviction of tenant Harbans Lal (since deceased, now represented by his LRs) from the demised premises bearing property No.EH. 199 situated at Civil Lines, G.T. Road, Jalandhar as indicated with letters ABCD on western side and IJKL towards southern side of the building. The ejectment was sought on the ground of non-payment of rent; portion of property IJKL is unfit and unsafe for human habitation and has already fallen and is in dilapidated condition for the last more than 15 years.

The shop shown as ABCD is required for bona fide need of the landlord,

who is authorised agent of Max Life Insurance Company and intend to set up her office after getting the premises vacated and the portion IJKL will be used for the purpose of business and will be kept for extension/other branch; and respondent will use this portion after reconstructing the same as per modern requirement. Revision petitioner-tenant is also guilty of making addition and alteration in demised premises without the permission of the respondent-landlord.

The revision petitioner-tenant contested the petition with the plea that it is bad for seeking partial partition. There are 3 different portions of the building in question which comprises of a workshop towards G.T. Road, garage on western side and servant quarter on northern side. Respondent-landlord has sought ejectment of the revision petitioner-tenant from the workshop and garage and not from the servant quarter. The entire land of khasra No.6875 is 6 kanals 12 marlas having several co-owners and the respondent is having 120/264 share in it, out of which she has already sold 10½ marlas of land to Chahal Bus Service. Earlier, M/s Reeta & Associates predecessor-in-interest of respondents had filed ejectment petition against the revision petitioner, which was dismissed vide order dated 24.05.1989 with observation that M/s Reeta & Associates have failed to prove that they were lawful purchaser of the demised premises, as such, there was no relationship of landlord and tenant. Appeal against that order was also dismissed by the Appellate Authority. Respondent has stepped into the shoe of M/s Reeta & Associates after purchase of the demised premises from the firm, as such, there is no relationship of landlord and tenant between the parties.

Revision petitioner-tenant alleged that he had taken three separate premises on rent from the original owner of property Dasondha Singh Thapar, Advocate and had paid rent qua the entire premises upto June, 1990. He is ready to pay arrears of rent to anyone including the petitioner provided she proves herself to be the landlord. After July, 1990 nobody had claimed rent from the revision petitioner.

About condition of the garage, it was alleged that the same is fit and safe for human habitation and for the shop towards western side, the requirement of the same for the personal bona fide necessity of the respondent was denied. It was averred that she has area of more than 3 kanals in her occupation at the spot, where she can open her office.

While looking into the issue of relationship of landlord and tenant between the parties, learned Rent Controller took a note of the previous relationship between the parties in the earlier petition filed by the revision petition in the year 2004 under Section 12 of the Rent Act seeking relief of permission to repair the garage, which has been described as IJKL in this petition. On the basis of evidence, learned Rent Controller observed as follows:-

“As regards the claim of present petitioner is concerned, the same is corroborated by the facts of the Ex.PW/E which duly reflects on page No.4 on the third line that respondent of this petition admitted the petitioner of this petition to be his landlord and demanded repair of the part of demised premises i.e. garage, but the said relief was declined by the then Rent Controller and the said order dated 01.02.2011 Ex.PW/E and the said order was later upheld in appeal by the Appellate Authority vide order dated 15.02.2012 which is Ex.PW/F.”

Admittedly, Dasondha Singh was owner of the property in dispute. He sold the same to M/s Reeta & Associates and respondent had purchased the demised premises from M/s Reeta & Associates vide sale deeds dated 27.06.1990, 08.06.1990, 05.10.1990 and 13.02.1991.

Learned counsel for the revision petitioner(s) has argued that the ejectment petition filed by M/s Reeta & Associates was dismissed by Rent Controller, Jalandhar with the observation that M/s Reeta & Associates have failed to prove that they were lawful purchaser of the suit property or have acquired the status of landlord qua the tenants in the property. Once the relationship of landlord and tenant between M/s Reeta & Associates and revision petitioner has not been proved, the respondent, who has stepped into the shoe of M/s Reeta & Associates cannot claim to be landlord of revision petitioner.

This arguments of learned counsel for revision petitioner has no merits as the Appellate Authority in appeal filed by M/s Reeta & Associates has categorically observed regarding the sale in favour of M/s Reeta & Associates as follows:-

“So I hold that Dasondha Singh executed sale deed Ex.A5 in favour of Reeta & Associates, vide Ex.A5, Reeta & Associates became owner of the premises in dispute.”

Ejectment petition of M/s Reeta & Associates was declined on the ground that the firm was dissolved prior to the filing of ejectment petition, as such, the same on behalf of the firm, was not maintainable and that it was bad for seeking partial partition.

The revision petitioner is not in a position to deny title of the

respondent over the suit property. Once the authority under the Rent Act has approved the sale of building of which the demised premises are part, by the previous landlord in favour of M/s Reeta & Associates, revision petitioner attained the status of tenant under the subsequent purchaser and now under the respondent.

Both the courts below have looked into evidence on record and have committed no error while observing that relationship of landlord and tenant between the parties are duly proved.

Learned counsel for the revision petitioner has argued that three separate tenancies were created in favour of revision petitioner by the earlier landlord Dasondha Singh, which comprises of workshop, garage and servant room. The present ejectment petition is bad on the ground of seeking partial partition as the respondent has not sought ejectment of the revision petitioner from the servant quarter.

The respondent has specifically pleaded that servant quarter is not existing at the spot as such, she has no reason to seek ejectment of the tenant from it. The plea taken by the respondent cannot be discarded. This petition is not bad for splitting tenancy of revision petitioner on this score. When the servant quarter is not in existence, the respondent was not required to seek ejectment of revision petitioner from the same.

So far as the unfit and unsafe condition of the garage is concerned, it appears that even revision petitioner has reconciled with this fact as he had filed a petition in the year 2004 under Section 12 of the Rent Act seeking repair of the garage, which was declined. The Rent Controller as well as the Appellate Authority have taken note of the evidence on record

and the testimony of the expert while reaching the conclusion that the demised premises i.e. garage identified as IJKL is unfit and unsafe for human habitation. Learned counsel for the revision petitioner could not challenge the finding recorded by the Rent Controller and Appellate Authority on this score.

Learned counsel for the revision petitioner has argued that demised premises is a big property. The respondent has projected her need for the shop in which the revision petition is running a workshop. Respondent can set up her office in any portion of the building. The shop in possession of revision petitioner has been targeted only to get it vacated, when the need of respondent can be fulfilled by using other portion of the building, as such, her need is not bona fide.

The above argument of learned counsel for the revision petitioner has no basis. Firstly, it is the choice of the landlord to see the feasibility of the premises required for her office. Admittedly, the workshop is situated in a corner and on the main road. Secondly, it is settled principle of law that tenant cannot dictate terms for the landlord about his personal bona fide necessity. Respondent finds that she can set up her office in the shop where revision petitioner is running a workshop. The requirement of the shop by respondent cannot be doubted as she does not possess any vacant shop adjoining shop in question. Learned Rent Controller and Appellate Authority have looked into this issue at length and passed well-reasoned order upholding the need of the respondent for the demised premises as bona fide and I find no legal or factual infirmity therein calling for any interference.

As a sequel of my above discussion, this revision petition has no merits.

Dismissed in limine.

March 28, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*