

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

(1) **Civil Revision No.3330 of 2015 (O&M)**

(2) **Civil Revision No.3385 of 2015 (O&M)**

Date of Decision: April 24, 2018.

Pawan Kumar

.....PETITIONER(s).

VERSUS

Harish Chadha

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arihant Jain, Advocate
for the petitioner (s).

Mr. M.S. Dua, Advocate
for the respondent.

SURINDER GUPTA, J.

Respondent Harish Chadha filed two separate petitions under Section 13 of East Punjab Urban Rent Restriction Act, 1949 (later referred to as 'the Rent Act') seeking ejectment of the revision petitioner Pawan Kumar from the shop forming part of Property No.244 (P)(5) and Property No.244(P)(3), Bazaar No.2, Ferozepur Cantt. on the ground of non-payment of rent and personal bona fide necessity.

The Rent Controller, Ferozepur accepted the plea of respondent that he required these shops for his personal bona fide need and ordered ejectment of revision petitioner. Not satisfied, the tenant preferred appeal, which was also dismissed by Appellate Authority with the

observation that the need of the demised premises by the respondent-landlord is bona fide and genuine.

Learned counsel for the revision petitioner while referring to the observation of learned Rent Controller in para 12 of the order, has argued that learned Rent Controller has concluded that respondent is not exclusive owner of the demised premises, as such, petition filed by him is bad for non-joinder of necessary parties i.e. other legal heirs of his father Prem Chand Chadha. Once the Authority under the Rent Act has reached the conclusion that the application is bad for non-joinder of necessary parties, it should have been outrightly dismissed. Respondent Harish Chadha has seven shops at the place where shops in question are situated and is running whole sale business of Biri and Cigarettes in another shop No.92 Bazaar No.4, Ferozepur Cantt. under the name and style of M/s Chadha Brothers. He has not come to the Court with clean hands and has concocted a story that shop in which he is running his business is owned by his mother Janak Devi, who has died during the pendency of the petition. The respondent has alleged that other legal heirs of his mother are seeking their shares in this shop, while no such proceeding between respondent and other cosharers are pending. In order to get the ejectment, a false story was propagated that respondent had a dispute with his mother while it is proved on record that respondent and his mother were living in the same house and having common mess. All the above facts when taken together, show that the need of the demised premises as projected by the respondent, is not bona fide and both the Courts below have committed grave error while holding that the need of the respondent is genuine and bona fide.

Learned counsel for respondent has argued that there are seven small shops on the side of the house of respondent, out of which three shops are already in his possession. The respondent required two shops in possession of revision petitioner as he want to convert all the seven shops which have an area of 60' x 12' into one big shop. Respondent is running his wholesale business in a shop in the main Bazaar No.4 Ferozepur Cantt., which was owned by his mother. He was a tenant under his mother and was having dispute with her. That shop is not suitable for his wholesale and retail business as the respondent requires a godown, a retail counter and an office for running his business smoothly. He had also filed petition for ejectment of the tenants from other two shops as well. Learned Rent Controller and Appellate Authority have also taken note of the fact that son of respondent has grown up and respondent also wants to adjust his son in business. Location of the shop where he is doing his business is not suitable for purpose of transportation, whereas location of shops adjoining his house will be more convenient and suitable. The argument of learned counsel for the revision petitioner that the petition is bad for non-joinder of necessary parties has no merits as learned Rent Controller has taken note of the fact that Prem Chand Jain father of respondent had executed a Will in favour of respondent. Even if, it be believed that respondent is one of the co-owner, still he is competent to file petition being landlord of the revision petitioner-tenant.

Firstly, I take a look at the submission of learned counsel for the revision petitioner that ejectment application filed by the respondent is bad for non-joinder of necessary parties. This issue was also raised before

the Rent Controller but it appears that Rent Controller has not clearly answered the arguments raised by learned counsel for the revision petitioner-tenant. The shops in dispute were owned by Prem Chand Chadha, father of respondent-landlord and he claimed title over the suit property on the basis of Will executed in his favour by his father. In view of the Will, the respondent is exclusive owner and landlord of demised premises. Even if, he be taken as one of the co-owner of the demised premises, still, he is competent to file the ejectment petition for personal bona fide necessity as none of the other co-owner has objected to the plea raised by him as such, this argument of learned counsel for revision petitioner that ejectment petition filed by respondent was bad for non-joinder of necessary parties has no merit and rightly rejected by the Rent Controller and Appellate Authority.

Learned counsel for the appellant has argued that the shop in which the respondent-landlord is presently carrying on business, is better located and is in the main market and his plea that he want to shift to the demised premises, has been raised only to get these two small shops in possession of revision petitioner, vacated. He has argued that main market is a better place for business than the shops outside the residential house.

Learned Rent Controller as well as Appellate Authority have looked into the requirement of the respondent-landlord for the demised premises, which the respondent-landlord required to shift his business from the main market; to convert the cluster of 7 shops into a big hall and then divide the same in godown, retail counter and office for the better management of his business and also to accommodate his son, who has

grown up and is to be settled. The need of the landlord is to be seen from his point of view. He is carrying on wholesale business of Biri and Cigarettes in a shop in Bazaar No.4, Ferozepur Cantt, which was owned by his mother and after the death of his mother, he and his sisters have become co-owners of the shop. Premises of 7 shops is 60' x 12', while the shop in which respondent-landlord is carrying on his business is 7' x 13' and is quite congested one. The intention of respondent-landlord to start his wholesale business at a place, which is not congested, cannot be doubted as a number of retailers have to come to a wholesaler for purchasing the material. The use of vehicles to get the consignment and to deliver the material to the retailers in a congested market is always difficult. The bona fide of respondent-landlord as projected in this petition has been rightly looked into and approved by learned Rent Controller as well as Appellate Authority and I find no legal or factual infirmity therein, calling for any interference.

These revision petitions have no merits and the same are dismissed.

As the revision petitioner is carrying on business in the demised premises, he is allowed two months time to vacate it and hand over the vacant possession to the respondent-landlord.

April 24, 2018.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***