

Civil Revision No.312 of 2018 (O&M)

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

Civil Revision No.312 of 2018 (O&M)

Reserved on 18.01.2018

Date of Pronouncement: 24.01.2018

M/s Impact Agencies Pvt. Ltd.

.....Petitioner

versus

Inderjit Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Argued by: -

Mr. Kanwaljit Singh, Sr. Advocate, with

Mr. Ajaivir Singh, Advocate, for the petitioner.

RAMENDRA JAIN, J.

Tenant has filed the instant revision petition challenging its eviction by Rent Controller, Ludhiana, vide judgment dated 20.03.2015 duly affirmed by the Appellate Authority vide judgment dated 05.12.2017.

Put pithily, upon filing an eviction petition by the respondents-landlord against the petitioner under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 *inter alia* on the ground of personal necessity, material impairment in the value of the property and arrears of rent, Rent Controller, after holding trial to the satisfaction of the parties, agreeing with the contentions of the respondents-landlord that demised portion of building bearing No.1061/A(Old) and B.XX.3364 (New), Ferozepur Road, Ludhiana, was required by them for their personal necessity, ordered eviction of the petitioner vide judgment dated 20.03.2015.

Being aggrieved, petitioner approached the Appellate

Authority, but remained unsuccessful as its appeal too was dismissed vide

Civil Revision No.312 of 2018 (O&M)

judgment dated 05.12.2017.

Learned counsel for the petitioner contended that eviction petition was filed on the basis of personal necessity of Harman Pal Singh respondent No.2-landlord. Both the authorities below failed to appreciate that Harman Pal Singh was happily settled at Bhuvaneshwar (Orissa) carrying on business of automobiles having the dealership of Telco in the name and style of M/s Pal Automotives Private Limited and running various other ventures like big hotels etc., therefore, he would not come and settle at Ludhiana. Entire story put-forth qua their personal necessity by the respondents-landlord ought to have been ignored and disbelieved by both the authorities below being concocted and false.

Both the authorities below have also failed to appreciate that PW1 Harman Pal Singh had concealed the fact regarding his business at Bhuvaneshwar, therefore, respondents-landlord were not entitled to any relief. The story put-forth by the respondents-landlord that relationship in between Harman Pal Singh and his father were since not cordial, therefore, necessity had arisen for Harman Pal Singh to shift to Ludhiana, was also false in view of the fact that both of them were directors in the aforesaid company jointly.

Both the authorities below have failed to appreciate the settled proposition of law laid down by the Hon'ble Supreme Court that landlord must come to the Court with clean hands and must express his *bona fide* needs. Both the authorities below while returning findings qua alleged impairment of utility of the tenanted premises and arrears of rent in favour of the petitioner ought to have rejected the plea of the respondents-landlord

qua their personal necessity.

Having given considerable thought to the submissions made by

Civil Revision No.312 of 2018 (O&M)

learned counsel for the petitioner, I find the instant petition completely devoid of any merit for the reasons to follow.

Respondents-landlord did not conceal anything from the petitioner or from the Rent Controller inasmuch as they categorically pleaded that Harman Pal Singh carrying business of automobiles having the dealership of Telco in the name and style of M/s Pal Automotives Private Limited at Bhuvaneshwar, on account of not having good terms with his father was intending to shift to Ludhiana for doing his own independent business of automobiles, where better opportunities were available for automobile business. Respondent No.2 Harman Pal Singh in his affidavit also testified that he was having vast experience which was required for opening an automobile venture and that he had sufficient means to open a new business at Ludhiana, where he has no other property except the demised property.

There was no necessity for the respondents-landlord to disclose their entire business establishments/ventures which they were having at Bhuvaneshwar for the knowledge of the petitioner for seeking his eviction from the demised property rather for that purpose they were required to prove their *bona fide* necessity which they had proved successfully beyond any doubt. Therefore, non-disclosure of the same does not amount to any concealment by the respondents-landlord.

The entire controversy in eviction petition revolves around the issue as to whether the landlords have been able to prove their *bona fide* necessity for eviction of his tenant. The stand of the petitioner before the authorities below and this Court as well is that since Harman Pal Singh

Respondent-landlord was having flourishing businesses at Bhuvaneshwar earning huge money, therefore, it was highly improbable that he would

Civil Revision No.312 of 2018 (O&M)

leave Bhuvaneshwar and shift to Ludhiana for settling a new business, is quite imaginary and highly hypothetical in the absence of any evidence what to talk of any cogent and convincing.

Hon'ble Supreme Court in a catena of judgments has repeatedly held that it is the prerogative, privilege and choice of the landlord to take decision regarding where he wants to carry his business and the tenant cannot dictate terms and curb the freedom of the landlord to expand his business. The tenant cannot advice the landlord in this regard. The need of the landlord unless otherwise proved by cogent and convincing evidence must be presumed to be *bona fide*. The Rent Controller in this context has rightly taken the aid of the judgment of the Hon'ble Supreme Court in *M/s Sait Nagjee Purushottam & Co. Ltd. v. Vimlabai Prabhulal & others*, 2005(2) R.C.R. 436.

More-so, there is no iota of evidence on the record from the side of the petitioner to falsify the *bona fide* necessity of the respondents-landlord to settle their business at Ludhiana in the demised property except his bald statement or some suggestions put by him to PW1 Harman Pal Singh in his cross-examination.

I have gone through the judgments of both the authorities below and find them well-reasoned and perfectly legal, therefore, not inclined to differ with the same.

In view of the discussion above, present petition is dismissed.

January 24, 2018
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.