

In the High Court for the States of Punjab and Haryana
at Chandigarh

CR No.3357 of 2018 (O&M)
Date of Decision:- 21.05.2018

Guru Dutt Passi

.....Petitioner

Versus

Kewal Krishan Sharma

.....Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Mr. Munish Puri, Advocate, for the petitioner.

GURVINDER SINGH GILL, J.

Petitioner-tenant has preferred this revision petition against judgment dated 20.3.2018 of Appellate Authority, Jalandhar whereby order of ejectment passed by learned Rent Controller, Jalandhar under provisions of East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred, "the Act") has been upheld.

The respondent-landlord had filed ejectment application under Section 13 of the Act mainly on the ground of non-payment of rent and on the grounds of personal necessity. While the learned Rent Controller did not accept the grounds of non-payment of rent, it was held that the landlord requires the premises for his personal *bona fide* necessity as the same is required for setting up business for his son. The said finding have been affirmed by the learned Appellate Authority as well, which have been challenged by way of filing the present revision petition.

Learned counsel for the petitioner-tenant while assailing the

impugned judgment has submitted that in fact the respondent-landlord had not approached the Court with clean hands inasmuch as he was in possession of other shops which were lying vacant, especially shop No.6 which is an adjacent shop and that his application for leading additional evidence was erroneously declined by the learned Appellate Authority wherein he sought to lead evidence to establish that in fact shop No.6 is in possession of the landlord. Learned counsel for the petitioner-tenant has further submitted that since the respondent-landlord had himself never stepped into the witness box, therefore, the learned Rent Controller fell in error with ordering ejectment in absence of his testimony.

I have considered the aforesaid submissions.

It is not in dispute that the respondent-landlord owned six adjacent shops and that ejectment applications in respect of three were pending. It is also borne out that a few months before filing of the present ejectment application, shop No.6 has been let out. The mere fact that shortly before filing of the present ejectment application, the landlord had let out an adjacent shop would not affect the present ejectment application as the necessity and requirement for the premises may have arisen thereafter. As regards declining of the application to lead additional evidence vide order dated 20.3.2018 (Annexure P-3), a perusal of Para No.5 of the application for leading additional evidence (Annexure P-2) shows that it is averred that the ejectment application filed in respect of shop No.6 was dismissed in terms of Order 9 Rule 2 CPC and that in fact filing of said ejectment application was a ploy in order to deceive the Court that the shop had been let out whereas it was still lying vacant with him. Without going into the veracity of aforesaid allegations stated in the application, this Court has to bear in mind that it is

settled law that it is for the landlord to choose as to from which of the premises he wishes to start his business. In any case, from the mere fact that the ejectment application in respect of shop No.6 was dismissed in terms of Order 9 Rule 2 CPC, it cannot be presumed that the ejectment application filed in respect of said shop No.6 was merely an eye wash. As such, there is no infirmity in rejection of application under Order 41 Rule 27 CPC filed by petitioner before Appellate Authority.

As regards the contention that an adverse inference ought to be drawn on account of the landlord not having himself stepped into the witness box, I find that his son Sumeer Sharma has stepped into the witness box, being his attorney. The petition had been filed by the landlord on the ground that he requires the premises in question qua himself and for his son Sumeer Sharma so as to start a business. In these circumstances, the said son himself having stepped into the witness box and also being attorney of his father, no adverse inference can be drawn for omission on the part of the respondent-landlord to step into the witness box. The aforesaid contention being devoid of merits does not carry any weight and is repelled.

No other ground has been pressed or urged before this Court. I do not find any infirmity in the findings as recorded by the Rent Controller and as affirmed by the lower Appellate Authority, Jalandhar.

Finding no merit in the revision petition, the same is hereby dismissed.

At this stage learned counsel for the petitioner-tenant has requested that the petitioner-tenant may be afforded 6 months' time to vacate the demised premises as he has been running his business since 1989 and that finding some appropriate accommodation will take some time.

The request is accepted to the extent that petitioner-tenant is directed to hand over vacant premises to the landlord by 31.12.2018 subject to the condition that all the arrears of rent of the demised premises are duly paid and he continues to pay rent/mesne profits regularly and also subject to his furnishing an undertaking to this effect before the learned Rent Controller, Jalandhar by 15th June, 2018.

May 21, 2018
mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No