

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

**Civil Revision No.4611 of 2010 (O&M)
Date of Order:06.08.2018**

Amrit Kaur

..Petitioner

Versus

Sanjeev Kumar Jain and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. M.L.Sarin, Senior Advocate, with
Ms. Alka Sarin, Advocate,
for the petitioner.

Mr. Akshay Bhan, Senior Advocate, with
Mr. Rohit Nagpal, Advocate,
for the respondents.

ANIL KSHETARPAL, J(Oral)

Landlord-petitioner is in the revision petition against the order passed by the learned Appellate Authority, reversing the order of eviction passed by the learned Rent Controller.

Only ground which survives for consideration is bonafide requirement of the petitioner and her family.

Premises in dispute is a shop-cum-flat located in Food and Vegetable Market, Sector 26, Chandigarh. Premises was let out to the respondent-tenant by a lease deed dated 25.02.1975. Apart from other grounds, it was pleaded by the petitioner that the premises is required for business to be run by the family primarily for the son who was 14 years of age at the time of filing of the petition. It is the pleaded case of the petitioner that initially her husband would run the business. It was further

pleaded that they also wish to occupy first and second floor which is for residential purpose.

Respondents-tenants contested the petition.

On appreciation of evidence, learned Rent Controller allowed the petition on the ground of bonafide requirement of the landlord. It may be noted that the petition remained pending before the Rent Controller for a period of 9 years and by that time, even the son Sandeep Singh Khatra had become major.

Learned Appellate Authority reversed the judgment of eviction passed primarily on two grounds:-

- (i) On the day, the petition was filed Sandep Singh Khatra, was minor, aged about 14 years and since the premises was required primarily to settle Sandeep Singh Khatra, therefore, is not the bonafide requirement but is only a greed.
- (ii) In the pleadings, there is no plea that the family wants to shift the residence from Patiala to Chandigarh and while appearing in evidence the landlady has improved upon her case pleaded and has pleaded that the family also wants to shift her residence.

This court has heard learned counsel for the parties at length and with their able assistance gone through the record.

In the considered opinion of this court, learned Appellate Authority committed an error in reversing the judgment passed by the learned Rent Controller because of the following reasons:-

- (i) Once Sandeep Singh Khatra had attained majority during

the pendency of the rent petition, the aforesaid subsequent event ought to have been taken notice by the learned Appellate Authority.

- (ii) Further the learned Appellate Authority committed an error in overlooking the pleadings and the evidence wherein it was specifically pleaded that initially husband of the petitioner who is already in the business of transportation and financing would start the business and the son would later on take over.
- (iii) No doubt, the requirement was for the family but primarily for the son. However, the learned Appellate Authority committed an error in overlooking the requirement pleaded which was for the family only.
- (iv) Similarly, the learned Appellate Authority further overlooked that in paragraph 5 of the petition, landlady had pleaded that her family intends to shift their residence from Patiala to Chandigarh. Paragraph 5 of the petition is extracted as under:-

“That the premises are required by the petitioner for her use and occupation and for the use of her family. The petitioners does not own or possess any other commercial or residential building in Chandigarh. The petitioner has not vacated nor occupied any commercial or residential building within the urban area of Chandigarh, after the commencement of the Act. The petitioner's family

consisted of herself, her husband Ajit Singh Khatra, one son Sandeep Khatra, and one daughter Harleen. Daughter Harleen has got admission in M.C.M. College, in B.Com in the year 1998 and son is getting education at Patiala. Ajit Singh husband of the petitioner has been running business of financing and transport. Ajit Singh is looking after the business through his employees, now it has been decided by the family, that the business is to be started at Chandigarh in the premises in question in the shop portion and first and second floor (Barsati) shall be used for residential purpose. The business shall be started particularly for the settlement of the minor child petitioner's son Sandeep Singh Khatra, Initially the business will be started by the husband of the petitioner. The requirement of the petitioner is bonafide."

Learned Appellate Authority further erred in substituting its opinion and doubting the bonafide intention of the petitioner on the ground that at Patiala they are residing in 2-3 kanal house, whereas in Chandigarh they will be shifting to first floor of a shop-cum-flat. It is well known that Chandigarh has better educational, medical facilities and better life. If the family wishes to shift to Chandigarh, the requirement expressed by the landlady could not be doubted as a greed and not bonafide requirement. At present, Sandeep Singh Khatra is almost 33 years old.

Although, an application for additional evidence has been filed to produce on record, an application filed by Sandeep Singh Khatra when he applied for license to run fruit and vegetable business, which was rejected. However, taking into consideration that there is no requirement of proving that fact particularly in view of the overwhelming evidence which has come on record, the learned Appellate Authority had committed an error in overlooking the subsequent events. This Court while dismissing the application for additional evidence as not necessary, reverses the judgment of the learned first Appellate Authority and restores the judgment of the learned Rent Controller.

The revision petition is allowed.

August 06, 2018
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(ANIL KSHETARPAL)
JUDGE

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