

In the High Court of Punjab and Haryana at Chandigarh

CR No.3643 of 2018 (O&M)

Date of Decision:- 29.05.2018

Narottam Lal Sharma

.....Petitioner

Versus

Naranjan Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Mr. Vijay Rana, Advocate, for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

By way of filing this revision petition, the petitioner-tenant assails judgment dated 11.5.2018 passed by learned Appellate Authority, Jalandhar whereby an order of ejectment dated 12.12.2017 passed by learned Rent Controller, Jalandhar has been upheld.

The case set up by the respondent-landlord as per the ejectment application is that previously Rishi Dev, father of the petitioner-tenant had been inducted into the demised premises on rent by Sohan Lal @ Rs.100/- per month which was subsequently increased to Rs.500/- per month. It is averred that before death of Sohan Lal he had executed a Will dated 24.4.2003 whereby he bequeathed all his movable and immovable properties in favour of his sons Shekhar Singh and Sarabjit Singh who are arrayed as respondents

No.2 and 3 in the present revision petition while respondent No.1 had been given a right to receive rent during her life time. The respondents/landlords averred that the petitioner-tenant was in arrears of rent and was a habitual defaulter. It was asserted that the respondents required the demised premises for their personal use and occupation in order to expand and diversify their business as the present business of fire wood and soft coke which they were carrying on is declining day by day.

The ejectment application was opposed by the petitioner-tenant wherein it was asserted that respondent No.1 Naranjan Kaur has no interest in the property as she has been authorized merely to receive rent and that respondents No.2 and 3 till date cannot be said to be owners as that they would get a right to seek ejectment only after demise of their mother i.e. respondent No.1 Naranjan Kaur who has a life interest in the demised premises. While denying all the other material averments of the ejectment application, a prayer was made for dismissal of the same.

The learned Rent Controller, upon appraisal of the evidence on record held that the grounds as regards the non-payment of rent are not made out but while accepting the grounds of “personal necessity”, an order of ejectment was passed. The appeal filed by the petitioner-tenant was dismissed by the learned Appellate Authority which has been challenged by way of filing the present revision petition.

The learned counsel for the petitioner-tenant while assailing the impugned judgment has submitted that admittedly after death of original owner Sohan Singh, his widow i.e. respondent No.1 Naranjan Kaur had acquired a life interest in the demised premises and she had been authorized

merely to collect rent and as such she would not have any right to seek ejectment. It has further been submitted that even respondents No.2 and 3, sons of deceased Sohan Singh would acquire interest in the demised premises only after death of Naranjan Kaur and that in these circumstances even they do not have any right to seek ejectment. The learned counsel in order to further hammer forth his aforesaid submissions has drawn the attention of this Court to the rejoinder, filed by the respondents/landlords wherein it has been stated that respondent No.1 does not want to run the shop and that it is respondents No.2 and 3 who require the demised premises.

I have considered the aforesaid submission and have also perused the impugned judgments. Though, it is correct that by virtue of the Will executed by the original owner Sohan Singh, respondent No.1 Naranjan Kaur had been authorized to collect rent of the demised premises during her life time but it goes without saying that in the said capacity she would step into the shoes of the landlord. It is also correct that respondents No.2 and 3 would get right of ownership in the demised premises only after death of respondent No.1 Naranjan Kaur but the present case is not pertaining to any adjudication regarding ownership of the demised premises but the real dispute involved in the present case is as to whether the landlord can seek ejectment on grounds of personal necessity. Since the widow of Sohan Singh as well as his sons have all jointly filed application for ejectment mainly on ground of personal necessity so as to expand and diversify their family business of fire wood and soft coke, it can certainly be said that the same constitutes “personal necessity” of widow of Sohan Singh. No doubt in the rejoinder she categorically states that she does not require the demised premises for herself

but in the same breath she has clarified that she needs the same for her sons. As such, the aforesaid contention of learned counsel for the petitioner that the present ejectment application is not maintainable cannot be accepted and is hereby repelled.

During the course of arguments it is also submitted that the mandatory requirement of Section 13 (3)(a)(i)(b) and 13(3)(a)(i)(c) of the East Punjab Rent Restriction Act, 1949 regarding the requirement of specific averments in the ejectment application that the landlord is not possessed of and has not vacated any identical premises, have not been made but a perusal of para No.6 of the ejectment application shows that it is specifically stated therein that the petitioners/landlords neither own or possess any other non-residential building in the urban area of Jalandhar nor have vacated any such building without any sufficient cause or reason after the commencement of the Rent Act. The said averments duly meet the requirement of law. As such, the aforesaid contention is devoid of merits and is hereby repelled.

I find that there is no misreading of evidence by the Courts below and the Courts have marshalled the evidence thoroughly. There is no infirmity in the findings as recorded by the learned Rent Controller, Jalandhar and as affirmed by the learned Appellate Authority, Jalandhar, regarding the *bona fide* requirement of the landlord of the premises in question on account of personal necessity and the same are hereby affirmed.

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 12 months' time to vacate

the demised premises as he has been running his business from the said premises since 1981 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 31.03.2019 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 within 3 weeks from today.

May 29, 2018
mohan

(GURVINDER SINGH GILL)
JUDGE

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