

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

CR No.4412 of 2011 (O&M)

Date of decision : 14.08.2018

Sham Sunder

...Petitioner

Versus

Jatinder Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. M.S. Dhami, Advocate for the petitioner.

Mr. Sudhir Paruthi, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The landlord-petitioner is in the present revision petition against the order passed by the learned Appellate Authority reversing the order of eviction passed by the Rent Controller on the ground of bona fide requirement of the landlord.

As per Section 13(3)(a) of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter to be referred as “the Act of 1949”), a landlord may apply to the Controller for an order directing the tenant to put the landlord in possession. Section 13(3)(a) of the Act of 1949 is extracted as under:-

“13. Eviction of tenants:- (1) xxx xxx

(2) xxx xxx

(3) (a) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession -

(i) in the case of a residential building if -

(a) he requires it for his own occupation;

(b) he is not occupying another residential building, in the urban area concerned; and

(c) he has not vacated such a building without sufficient cause after the commencement of this Act, in the said urban area;

(d) it was let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment.

Provided that where the tenant is workman who has been discharged or dismissed by the landlord from his service or employment in contravention of the provision of the Industrial Disputes Act, 1947, he shall not be liable to be evicted until the competent authority under that Act confirms the order of discharge or dismissal made against him by the landlord.”

The word “residential” was struck down by Hon'ble the Supreme Court in the judgment cited as **Harbilas Rai Bansal and another vs. State of Punjab, (1996) 1 SCC 1**. Hence, the Act as it exists is to be read without the word residence or residential.

In the considered opinion of this Court, there are three following requirements which are required to be pleaded:-

1. He required the property for his own occupation.
2. He is not occupying any other building in the urban area concerned.
3. He has not vacated such a building without sufficient cause after the commencement of this Act in the urban area.

In the petition, the petitioner-landlord had pleaded in para 4(c) and 4(d) as under:-

“4 (c) That the petitioner bonafide requires the premises in dispute for his personal necessity. The petitioner has no place to open the cloth shop for his and his families livelihood. He is expert in cloth business and has sufficient funds to invest. The accommodation in possession of the petitioner is not suitable and sufficient to meet his needs of.

(d) That the petitioner has not vacated any portion without any sufficient cause after the commencement of this act.”

The Appellate Authority has reversed the order of eviction on the ground that necessary ingredients have not been pleaded. In the considered view, such finding of the Appellate Authority is result of mis-reading of the pleadings. In first sentence of para 4(c), the landlord pleads his bona fide requirement in terms of Section 13(3)(a)(i)(a) of the Act of 1949. In second sentence, the petitioner pleads the second requirement as provided in Section 13(3)(a)(i)(b) of the Act of 1949. In para 4(d), the requirements of Section 13(3)(a)(i)(c) of the Act of 1949 have been pleaded. Still further, the defendant-tenant could not produce any evidence to prove that the landlord was in occupation of any other building in the urban area concerned. It may be noted that the occupation of another building has been interpreted to mean that such building should be suitable for the business which the landlord wishes to carry on. In the present case, as noticed, the Appellate Authority only reversed the judgment of the Rent Controller on the ground that the requirements of the Act have not been pleaded.

The aforesaid view, as noticed above, has been found to be erroneous. Hence, the present revision petition is allowed. Order under challenge is set aside. The order of eviction passed by the Rent Controller is restored.

14.08.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No