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

**CR No. 4551 of 2018(O&M)
Date of Decision:06.12.2018**

Bhupinder Singh

.....Petitioner

Versus

Shri Ram Kanya Mahavidhyalya Sabha (Regd.) Nimak Mandi Amritsar society registered under societies Registration Act through Shri Prem Grover @ P.C. Grover Advocate Amritsar its president.

..... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.B.D.Sharma, Advocate
for the petitioner.

LISA GILL, J.

Petitioner is aggrieved of order dated 21.03.2017, passed by the learned Rent Controller, Amritsar, as well as order dated 07.03.2018, passed by the learned Appellate Authority, Amritsar.

Brief facts necessary for the adjudication of the case are that the respondent-landlord-Shri Ram Kanya Mahavidhyalya Sabha(Regd.) Nimak Mandi Amritsar, a registered society, filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act (Act No. III of 1949) seeking eviction of the present petitioner-tenant from the premises in question i.e., a shop on the ground floor of the building belonging to the society. The premises in question were averred to have been given on rent to the petitioner vide a rent note dated 24.02.1997. Eviction of the petitioner was sought on the ground of arrears of rent, conversion of the user of the

premises without the consent of the landlord by using the demised shop as a godown as well as on the ground of *bona fide* personal necessity. It was pleaded that the landlord was running a school in two buildings, one in Landa Bazar Nimak Mandi, Amritsar, where office of the Principal, clerical staff, prayer hall, room for meeting of managing committee is on the ground floor and classes of students are held at upper floors of the building. The other was a primary school being run in the building in question i.e., no. 228/7-2 in Bazar Jaura Pippal Katra Garba Singh Amritsar, wherein minor children of the age group of 10-11 were studying from 1st Standard to 5th standard on the first floor of the building. It is further narrated that on the ground floor there are shops in the shape of a small market including the shop in question besides others, facing each other with a passage of about eight feet in between the shops. The only access to the primary school at first floor, is through a staircase between the shops. The stairs were stated to be 8 inches each in height and 3 ft 6 inches wide. Except this, there is no other access to the primary school from the Bazar side.

It was further pleaded that there was no entrance available to the primary school directly from the market. Students had to pass through a very narrow passage and climb up the stairs which were too steep for children of tender age. There was no place for a separate prayer hall or incharge of the primary school and other requirements. Two shops bearing no. 5 and 11, it was claimed had already been got vacated by the landlord and those would be used for the purposes of running the school, but until and unless the shop in possession of the petitioner was got vacated, it would not be possible to provide proper infrastructure.

The petitioner-tenant resisted the petition, though, it is admitted that the petitioner was inducted as a tenant in shop no.7.

From the pleadings of the parties, following issues were framed by the learned Rent Controller, Amritsar:-

1. Whether the respondent is liable to be ejected from the demised shop?OPA
2. Whether the respondent has converted the user of the demised shop as alleged?OPA
3. Whether the applicant bonafide requires the demised shop for its own use?OPA
4. Whether the application is legally not maintainable?OPR
5. Whether the applicant has no locus standi to file the present application?OPR
6. Relief.

Both the parties led evidence in support of their respective claims.

Learned Rent Controller, Amritsar, on considering the facts and circumstances of the case, allowed the eviction petition filed by the respondent-landlord on the ground of *bona fide* personal necessity.

Appeal preferred by the petitioner was dismissed by the learned Appellate Authority, Amritsar, vide judgement dated 07.03.2018.

Aggrieved therefrom, present petition has been filed.

Learned counsel for the petitioner vehemently argues that there is another building in possession of the respondent-landlord where a school is already being run. There is litigation pending between other tenants regarding eviction. Some of the petitions against the other tenants were withdrawn on the basis of a compromise. Strength of the students studying in the school has not been proved. Therefore, respondent-landlord has

miserably failed to prove that the premises in question are required for expansion of the school. It is thus prayed that this petition be allowed and both the judgments dated 21.03.2017 and 07.03.2018, passed by the learned Rent Controller, Amritsar and learned Appellate Authority, Amritsar, respectively be set aside, consequently dismissing the petition filed by the respondent-landlord.

Heard learned counsel for the petitioner at length and have gone through the file.

It is relevant to note that the petitioner, who testified as RW-1 has admitted in his cross-examination that primary school of the respondent-landlord is being run on the first and second floor of the premises. The students have to go upstairs to attend their classes. It is further admitted by RW-1 that out of 13 shops in the building, 7 are on one side and 6 on the other side. Passage in between is of about 12 feet. Petitioner has categorically admitted that 50 students are studying in the primary school which is from the 1st standard to 5th standard. It is proved from the evidence on record that a primary school is being run in the abovesaid building, wherein children of the age group of 10-11 years are studying from Class 1st to Class 5th. The only access to the primary school is through a staircase from in between the shops having width of 3 feet 6 inches with steps which are 8 inches high. Both the learned Rent Controller, Amritsar and learned Appellate Authority, Amritsar, have rightly allowed the petition filed by the respondent-landlord after proper appreciation of the evidence on record.

No other argument has been raised.

Learned counsel for the petitioner is unable to point out any

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illegality, infirmity or perversity in the impugned order dated 21.03.2017, passed by the learned Rent Controller, Amritsar as well as order dated 07.03.2018, passed by the learned Appellate Authority, Amritsar, which calls for interference by this Court in exercise of revisional jurisdiction.

Petition is accordingly dismissed with no order as to cost.

06.12.2018
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.