

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

CR No.5292 of 2016 (O&M)
Date of decision : 08.10.2018

Sandeep Passi

...Petitioner

Versus

Ravinderjit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pankaj Jain, Advocate for the petitioner.

Mr. A.P. Kaushal, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

The tenant-petitioner is in the revision petition against the concurrent findings of fact arrived at by the Rent Controller affirmed by the Appellate Authority ordering his eviction on the ground of bona fide necessity of the landlord who wants to expand his business.

Learned counsel for the petitioner has raised two following contentions:-

1. The ingredients of Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter to be referred as “the Act of 1949”) have not been pleaded.
2. The landlords had purchased the property measuring 65 square yards which was also sold, therefore, the requirement of the landlord is not bona fide.

It may be mentioned that as per the Act of 1949, the landlord is required to plead three following facts:-

- i) Bona fide requirement.
- ii) He has not vacated any such property without any sufficient cause from the date of commencement of the Act.
- iii) He is not in occupation of any other building.

In the present case, the petitioners while filing the petition, have pleaded as under:-

“That the petitioners have also required the tenancy shop for their own use and occupation. The petitioners are doing the business of sale/purchase of seeds in a rented shop and the landlord of the petitioners is pressurizing the petitioners to vacate the shop and moreover the petitioner also want to expand their business. The shop in dispute is very suitable for their above said business and its expansion. The petitioners have not owned such property in the Local Urban area concerned nor they have vacated any such property during the preceding two years.”

The argument of the learned counsel is that the landlord was required to plead that he has not vacated any such property from the date of commencement of the Act of 1949. However, on being asked, learned counsel for the petitioner could not draw attention of the Court to the objection taken by the tenant in this regard while filing the written statement. The tenant-petitioner now at this stage, cannot be permitted to defeat the right only on the ground that the pleadings are lacking to the extent of small mistake. Still further, the petitioner-tenant has led no evidence to establish that the landlords after the commencement of the Act

had vacated any such building.

Second argument of the learned counsel is with regard to the purchase and sale of 65 square yards commercial property which is part of the bigger property where the shop has been constructed. It has come in evidence that the landlord purchased the occupied property in possession of the tenant which was sold as such. Landlords never came in possession of the aforesaid property purchased and sold. Once the property which was purchased never came in possession of the landlord, the bona fide of the landlord cannot be doubted on the ground that the adjoining property was purchased and sold.

In view thereof, there is no ground to interfere.

Revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

08.10.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No