

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

**CR No.4927 of 2018(O&M)
Decided on. 14.08.2018**

Ashwani Kumar

.....Petitioner

Versus

Smt. Jawantri Verma and others

.....Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

Present: Ms. Garima Sharma, Advocate
for the petitioner.

LISA GILL, J. (Oral)

Petitioner is aggrieved of judgments dated 15.07.2017 and 31.05.2018, passed by learned Rent Controller and learned Appellate Authority, Ambala, respectively, whereby his eviction from the premises in question i.e. Shop no. 5321/2 (New No. 1083/3) has been directed.

Petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973, was filed by the respondents seeking eviction of the petitioner from the premises in question. It was pleaded that husband of respondent no.1 namely Rajinder Parkash, was the owner and landlord of the demises premises. He passed away on 03.05.2005. After his death, all the three respondents stepped into his shoes and become exclusive owners of the demised premises. Present petitioner's father namely Harbans Lal was a tenant under Rajinder Parkash. After his death,

the present petitioner become statutory tenant of the demised premises at a fair rent of ₹187.50/- per month as per order dated 30.08.2007 passed by the then Rent Controller, Ambala. Eviction of the petitioner was sought on the following grounds:-

1. The petitioner wants to vacate the demised premises for personal necessity as the demised premises were required for bona fide need, use and occupation of the daughter-in-law of petitioner no.1 for running her clinic by reconstructing the same/ demolition of the residential house just behind the shops of the landlords and by merging the space, suitable for clinic, maternity home.
2. Petitioner had made material alterations in the demised premises without the consent of the respondents.
3. The demised premises is lying locked for the last six months and no business was being conducted thereon by the petitioner.
4. Rent from 16.03.2012 to 30.11.2014 @ ₹187.50/- was not deposited.

The present petitioner filed a written statement while denying the averments in the petition.

The following issues were framed by the learned Rent Controller, Ambala:-

1. Whether the respondent is liable to be ejected from the shop in question on the ground alleged in the petition?OPP
2. Whether the petition is not maintainable in the present form?OPR

3. Relief.

Learned Rent Controller, Ambala, did not find any merit on the grounds that material alterations had been made or that the premises were lying locked six months prior to the filing of this petition. In respect to the ground of non-payment of rent, arrears of rent for the period in question were deposited by the petitioner on 06.05.2015. However, eviction of the petitioner from the demised premises was directed on the basis of the *bona fide* need and personal necessity of the landlord, as it was held that daughter/wife of respondents no.1 and 3 required the premises for running a clinic/hospital.

Appeal filed by the petitioner was dismissed by the learned Appellate Authority, Ambala, on 30.05.2018. Aggrieved therefrom, the present petition has been filed.

Learned counsel for the petitioner argues that there are other shops, which have been got vacated by the landlords and the said premises are enough for the daughter-in-law/wife of the respondents for running her clinic, therefore, personal necessity or *bona fide* requirement of the landlord, is not proved. It is thus prayed that this petition be allowed.

I have heard learned counsel for the petitioner and have gone through the file with her able assistance.

It is not denied that another tenant has also been evicted from an adjoining shop on an eviction petition filed by the respondent-landlord against the said tenant. The matter was finally decided in favour of the landlord by this Court on 01.07.2013. PW-2-Dr. Monika Verma, has

specifically deposed about absence of a proper and suitable place for running a clinic/maternity home. Though it was averred on behalf of the petitioner that PW-2, is not proved to be a doctor, her degree (Ayurvedic) is on record as Ex.P-5. It is vehemently argued that the landlord has sufficient place to run the clinic. However, it is not denied and it is a matter of record that total area purchased vide sale deed Ex.P-1, comprising the house and three shops including the shop in question is only 100 sq. yards. The landlords have taken a specific stand that they wish to demolish the entire construction and raise it anew. It is stated by the landlord that three instead of two shops were constructed on the premises with the permission of the Municipal Committee. The shop with another tenant has already been got vacated and possession of the other was already with the landlord. It does not lie with the petitioner, to contend that the said premises are sufficient for the landlord. Possession of part of the premises does not dis-entitle the landlord from seeking eviction of the present petitioner from the premises in question. It has been rightly held by the learned Courts below that the need of the landlord is to be determined by the landlord himself and not by the tenant. There is indeed nothing on record to indicate that the personal need of the landlord in this case is not *bona fide*.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned judgments dated 15.07.2017 and 31.05.2018, passed by the learned Rent Controller and learned Appellate Authority, Ambala, which calls for interference by this Court in exercise of revisional jurisdiction.

Petition is accordingly dismissed.

However, a period of four (04) weeks from the date of receipt of certified copy of this order, is afforded to the petitioner to handover the peaceful, vacant possession of the shop in question to the respondents.

August 14, 2018

s.khan

**(LISA GILL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No