

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

CR No.5618 of 2016 (O&M)

Date of decision : 28.08.2018

Satnarain and another

...Petitioners

Versus

Amrik Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Kumar, Advocate for
Mr. Neeraj Sharma, Advocate for the petitioners.

Mr. Vikas Singh, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The tenants-petitioners are in the revision petition against the order passed by the Rent Controller affirmed by the Appellate Authority ordering the eviction on the ground of bona fide necessity of the son.

At the time of motion hearing, this Court on 02.09.2016 after considering the various aspects of the matter, passed the following order:-

“Heard.

Ejectment of the revision petitioners has been ordered by the Rent Controller and Appellate Authority under the East Punjab Urban Rent Restriction Act (herein referred as, 'the Rent Act') upholding the personal bona fide necessity of respondent-landlord for demised shop to settle Inderjit Singh son of Mohan Singh as genuine and bona fide.

Learned counsel for petitioners-tenants has argued

that landlords have sought eviction of three shops out of which one shop is in their possession and ejectment petitions of other two shops have been filed and as such this shop may not be required for running the business of Inderjit Singh and secondly, four other shops which are admittedly in their possession can be used to start the business of Inderjit Singh.

The above plea raised by the learned counsel for petitioners has no merits, as such, cannot cast any aspersion on the personal bona fide need of the respondents-landlords, therefore, I find no reason to interfere with the findings of Appellate Authority under the Rent Act held on this point, firstly because it is for landlord to evaluate and then establish his personal bona fide need for tenanted premises and secondly, to evaluate suitability of a premises for his need. In the instant case both points discussed above have been duly considered by authorities under 'the Rent Act' and call for no fresh appraisal.

Learned counsel for petitioners has raised two technical objections relating to non compliance of the provisions of Section 13 (3) (ii) (b) and (c) of the Rent Act. He has argued that in the pleadings there is no compliance of the provisions of Section 13 (3) (ii) (c) of the Rent Act and secondly, there is no such pleadings on behalf of son of petitioners.

Notice of motion on this point only for 5.12.2016.

In the meantime, execution of the impugned order shall remain stayed subject to the following conditions:

(i) The petitioners-tenants will pay/deposit the entire rent due up to the date of judgment of Appellate Authority and from that day onwards they shall deposit the mesne profits @ ₹5000/- per month up to 30.9.2016, within four weeks from today.

(ii) They will keep on paying/depositing the advance rent/mesne profits of subsequent months on or before 7th day of each month.

(iii) They will file affidavit before the Executing Court within six weeks from today, giving details of entire payment of rent/mesne profits.

In case of default of any of the above terms, the respondents-landlords shall be entitled to execute the order of ejectment forthwith.

It is further made clear that this interim order is only till next date of hearing and shall not be deemed as extended automatically without specific order in this regard.”

Only issue which is to be examined by this Court is whether the provisions of Section 13(3)(ii) Clauses (b) and (c) of the East Punjab Urban Rent Restriction Act, have been complied with or not. The present case was filed by Amrik Singh and Mohan Singh brothers. In para (iv) of the petition, the petitioners had pleaded as under:-

“(iv) That the petitioners have not any other suitable accommodation for fulfilling the requirement of their children. The petitioners have not got vacated any building or let out any building with in the last six months from the day of filing the present petition.”

It may be noted that in the written statement, the tenants did not take objections that such ingredients have not been pleaded qua son namely Inderjit Singh. However, when Amrik Singh appeared in the witness-box, he was specifically asked this question and he stated that even the son namely Inderjit Singh is neither in occupation of any suitable premises nor he has vacated any other premises in the urban area concerned without sufficient cause. Still further, Inderjit Singh has appeared in the witness-box as PW4.

Neither he was given any suggestion nor he was cross-examined on this aspect of the matter.

In view thereof, in the considered view of this Court, the ingredients of Section 13 of the East Punjab Urban Rent Restriction Act stands fulfilled. Hence, no ground to interfere.

Revision petition is dismissed.

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

28.08.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No