

In the High Court of Punjab and Haryana at Chandigarh

CR- 620 of 2018 (O&M)
Date of Decision:2.2.2018

Naresh Kumar

---Petitioner

vs.

Lakhwinder Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.V.K.Sandhir, Advocate
for the petitioner

Rekha Mittal, J.

The present petition directs challenge against orders dated 14.2.2017 passed by the Rent Controller, Amritsar and dated 11.12.2017 by the Appellate Authority whereby application under Section 13 of the East Punjab Urban Rent Restriction Act of 1949 (in short “the Act”) for ejectment of the petitioner from the premises in dispute was allowed by the Rent Controller and the order of eviction has been affirmed in appeal.

Counsel for the petitioner has submitted that the respondent/landlord sought eviction on the ground of non-payment of rent as well as personal requirement. The application for eviction was allowed only on the ground of personal requirement of the respondent/landlord. The respondent in the application has averred in sub para (f) of para 5 that he does not own or possess any other premises in the urban area concerned

except the demised premises and has also not vacated any such premises in the urban area concerned after commencement of the Act. A similar statement to this effect was made by him in his affidavit (Annexure P-4) tendered by way of examination in chief. It is argued that from the facts elicited in cross examination of Lakhwinder Singh AW1 as well as evidence adduced by the petitioner, oral and documentary, it has been clearly proved that the respondent owns more shops forming part of Raja House of which the demised premises is also a part, therefore, the respondent is guilty of mis-stating material facts and cannot be allowed indulgence of the Court for eviction of the petitioner who is running tea shop in the premises in question for the past about three decades.

In the alternative, counsel would urge that in case orders passed by the Courts are affirmed, the petitioner may be given reasonable time to arrange alternative accommodation and shift his business so that there is no financial set back to his family.

Perusal of averments raised in the application for eviction (Annexure A-1) and so also affidavit of the respondent/landlord leaves no manner of doubt that it has been averred by the respondent that he does not own or possess any other premises in the urban area concerned except the demised premises.

Section 13 of the Act provides for eviction of tenants. Sub Section 3(a) thereof, germane to the controversy, reads thus:-

“Eviction of tenants.-(1) xxx xxx xxx

(2)xxx 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 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) xxx xxx xxx.”

There is no such stipulation that a landlord cannot seek eviction of his tenant if he owns any other premises in the urban area concerned except the demised premises. Under the circumstances, even if respondent/landlord owns any other premises in the urban area of Amritsar, that does not debar him from seeking eviction of the petitioner from the premises in dispute. There is nothing on record to suggest that the respondent is occupying any other premises in the urban area concerned which can create a legal bar to seek eviction of the petitioner. That being so, the petitioner cannot derive any advantage to his contention even if the respondent is proved to be owner of any other premises in the urban area concerned besides the premises in question. That being so, challenge to the impugned orders on merits is not tenable.

The petitioner is stated to be a tenant in the premises since August 1988. He is a small time shopkeeper, running a tea shop in the premises in question. In order to enable him to resettle his business, he is allowed time upto 31.7.2018 to vacate the premises in question, subject to

following conditions:-

1. He shall furnish an undertaking before the Rent Controller within a period of 15 days from receipt of certified copy of the order to the effect that he will hand over vacant possession of the demised premises to the respondent on or before 31.7.2018.
2. He shall clear the arrears of outstanding rent within a period of two months from today and rent for future months on or before 15th of each calendar month.

In case the petitioner fails to comply with either of the conditions aforesaid, the respondent shall be at liberty to execute the order of eviction forthwith.

Disposed of accordingly. No order as to costs.

(Rekha Mittal)
Judge

2.2.2018
paramjit

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No