

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

1. **C.R. No. 6803 of 2014**

Kamaljit SinghPetitioner

versus

Karam Chand and others ...Respondent

2. **C.R. No. 6957 of 2014**

Didar Singh and othersPetitioners

versus

Karam Chand and others ...Respondent

Date of decision : 18.05.2018

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. P.K. Kataria, Advocate
for the petitioner.

Mr. Manish Bansal, Advocate
for the respondent.

RITU BAHRI, J. (Oral)

This order of mine shall dispose of the above two petitions wherein challenge is to the judgment dated 11.08.2014 passed by learned Appellate Authority, Amritsar whereby judgment dated 17.07.2013 passed learned Rent Controller, Amritsar was upheld, vide which the ejectment application of the landlords was allowed on the ground of bonafide need.

Brief facts of the case are that respondent Nos. 1 and 2/landlords (herein after to be referred as 'the landlords') are owners of property bearing Shumari No. 2309/10-12 situated in Nai Gali, Katra Singh, Amritsar and have purchased the same for consideration vide two sale deeds dated 30.07.2007 and 31.07.2007 from its owner Smt. Paramjit Kaur.

Petitioners were inducted as tenants by its previous owner in private shops Nos. 1 and 2. It was an oral tenancy with delivery of possession. The petitioners had paid rent up March, 2007 at the rate of Rs.400/- per month for both shops and got receipts from its previous landlady i.e Paramjit Kaur. It was mutually agreed between the respondents and previous landlady that rate of rent will increase by 5% in the month of April every year and it was also agreed that they would pay the house tax on the rent value of the tenancy unit. After purchase of property, respondents have become the landlords and there exists relationship of landlord and tenant between the parties. Petitioners have neither paid nor tendered the arrears of rent w.e. 01.04.2007 till filing of the petition at the rate of Rs.420/- per month.

The landlords required the demised shops bona fide for their own use and occupation as they are running their embroidery business in five rented shops in the building just opposite the demised shops and they are not in possession of any other shop as owners and they purchased the property only with aim to keep their residence and run their business in their own shops in the demised building.

The ejectment petition filed by the landlords was allowed by Rent Controller and was further upheld by the Appellate Authority.

Learned counsel for the petitioners has referred to judgments passed by this Court in cases of ***Pritam Singh Bakshi vs. Mrs. Sukhdev Kaur and others, 2014 (1) RCR (Rent) 340*** and ***Tilok Tirath Vidyavati Chhuttani Charitable Trust vs. Janak Raj Ahuja, 2013(1) RCR (Rent) 563*** wherein the eviction sought on the grounds of personal necessity. The Landlord has not stated that he was not in occupation of SCO No. 3003-3004, Sector 22-D, Chandigarh after the commencement of the Act and had not mentioned the sufficient cause

for vacating the said premises either in the petition or in replication and thus his ejectment was found to be rightly dismissed. Learned counsel has further referred to full bench judgment of this Court passed in a case of ***Banke Ram vs. Sarswati Devi 1977 AIR Punjab 158***

On the other hand, learned counsel for the respondents has referred to a judgment passed by this Court in a case of ***Ram Kishan Dass (deceased) through LR's vs. Parveen Gulati and others, 2015 (2) RCR (Civil) 83*** where the case of ***Banke Ram (supra)*** was also considered and it has been held as under:-

The Full Bench in the case of Banke Ram (supra), succinctly traced out the requirement and need in the averments that the landlord must make specifically as per the ingredients contained in Section 13(b)(c) as they are an essential part of Sub-clause (a). However, it was held that the tenant is not to be taken by surprise and the Court is to give full consideration to the contentions raised by the respective parties. It has further been laid down that it could not be understood that in no circumstances the findings in pleadings the evidence regarding the ingredients envisaged under Sub-sections (b) & (c) cannot be looked into. In the present case, as noticed, the tenants were well aware as to what number of rooms and shops were in occupation of the landlord. There was no other material produced that there was any other shop apart from the shop or building in question which are in occupation of the landlord, the factum of which had been concealed from the Court or from the tenants.

23. *The parties were, thus, well aware of what was the premises in occupation and therefore, the argument raised that there was any concealment on the part of the landlord is without any basis.*

*No doubt an amendment application was filed before the Appellate Authority, benefit of which has now been sought by the tenant in Bal Kishan's case, to say that there was an admission itself. But, as has been discussed in detail, the factum of the other vacant shop No.514 was specifically mentioned. The size of the shop, which has got a mere frontage of 7 feet, which has been noticed by the Rent Controller in its judgment dated 24.03.2008, would not be a shop as such which could be used for setting up a business of readymade garments and for the sale of the same if the landlord was wanting to amalgamate the three shops and open one showroom for sale of readymade garments. His bona fide necessity could not be doubted on this account because he was in possession of one of the shops which had been available to him for a long time. It has been noticed that he has been using the said shop in the meantime for parking his car, in Bal Kishan's case. Merely because he had another room which was vacant on the first floor would not be a ground for the tenant to submit that there is sufficient accommodation available with him. The evidence was there on record before the Courts below as to what was available to the landlord and it cannot be said that there was any concealment, as such, which would disentitle the landlord on this ground, as has been argued. It has been rightly pointed out that the tenant should not dictate the terms and conditions to the landlord as to which is the requisite premises for his personal necessity and how he has to run his business. Reference was rightly made to the judgment of the Apex Court in **Sarla Ahuja** (supra). Relevant observations read as under:*

“14. The crux of the ground envisaged in clause (e) of

Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bona fide. When a landlord asserts that he requires his building for his own occupation the Rent Controller shall not proceed on the presumption that the requirement is not bona fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona fide. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bona fides of the requirement of the landlord it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself.”

In the present case, the landlord has placed on record the site plan Ex D1 which was duly proved by examining Rohit Gupta Draftsman. As per this site plan, shop No. 3, 4 and 5 shown in red colour were in possession of Karam Chand. There is no concealment on the part of the petitioners/respondents. The site plan is usually filed at the time of filing of the petition. The respondents clearly stated that they had purchased the suit property vide two sale deeds dated 30.07.2017 and 31.07.2017. Karam Chand in his cross examination has admitted that there are five shops in the suit property, three are in his possession and two are in possession of the petitioners/tenants. Further it has come on record that the respondents are working and occupying eight shops as tenants in another property opposite to the demised property and are paying Rs.10,000/- as rent.

R.W.1 Kanwaljit Singh in his cross examination admitted that the demised premises has been purchased by the respondents and they are owners. The respondents have claimed the petitioners to be tenant @ Rs.200/- per month per shop and the petitioners have claimed themselves to be tenant @ Rs 310/- per month for two shops. It was also admitted that the respondents are running the

embroidery business.

Thus, the relationship between the tenant and the landlord is not in dispute. No such rent note has been led in to evidence by the petitioner. No such witness was even cross examined by the petitioners who could have stated that the rent is @ Rs.310/- per month so paid by the petitioners to the landlord. The landlord is the best judge of his need it is for her/him to see suitability of particular place for his business. It has been proved on record that the landlord is running the business in one tenanted premises and they own the demised premises. The landlords are further occupying eight shops as tenants in another property opposite to the demised property and are paying Rs.10,000/- per month as rent. The landlords had purchased the entire property from the previous owners vide two sale deeds and their case is in that property. So except the two shops which are in possession of the petitioners, the landlords are in possession of the remaining property.

The judgment of ***Pritam Singh Bakshi*** cited by learned counsel for the petitioner is of no help as in that the landlord has not stated that he was not in occupation of SCO Nos. 3003-04, Sector 22-D Chandigarh after the commencement of the Act and had not mentioned sufficient cause for vacating the said premises either in the petition or in the replication. But in the present case, even tenant-Karam Chand has admitted that the landlords are further occupying eight shops as tenants in another property opposite to the demised property and are paying Rs.10,000/- per month as rent.

It is a settled principle that the tenant cannot dictate the terms to be landlord and he could not even advise or guide the landlord to do his business in a particular place. It has been proved on record that the respondents are running their business in one tenanted premises and they own demised premises.

No ground is made out interfere in the impugned judgments dated 17.07.2013 and 11.08.2014.

The petitions stand dismissed.

18.05.2018
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>