

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

CR No.6941 of 2018

Date of Decision: November 01, 2018

Dr. Jawahar Lal Bansal

..... Petitioner

Versus

Maneet Kumar

.... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. J.K.Singla, Advocate for the Petitioner.

SUDIP AHLUWALIA, J.

This Revisional Application is directed against the Order passed by Ld. Rent Controller, Bathinda in Rent Petition No.58 of 2017.

2. Vide the impugned Order, the Ld. Rent Controller had dismissed an Application of the Petitioner/Tenant for discovery and production of certain original documents allegedly in the custody of the Respondent/Landlord and his family members. It may be mentioned that the Respondent had filed the Eviction Petition against the Petitioner under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 in which, the principal ground to seek the Petitioner's eviction from the demised shop was of bonafide personal necessity.

3. The contention of the Petitioner before the Ld. Rent Controller was that there were two other shops in the property in question bearing MC Nos.2087 and 2087-A, The Mall, Bathinda, which had earlier been let out on rent with two tenants namely 'Kazari' and 'Elisir Lifestyle', but were vacated during the pendency of the case by those tenants, and that the same

shops were then let out by the Respondent/his family members to two new tenants under the names of 'Go Colours' and 'Meena Bazar', which fact was intentionally suppressed by the Respondent/Landlord, who is also alleged to have forged and fabricated a Sham Memorandum of Partition of the composite property in collusion with his family members motivatedly to make out a false case that he was not possessed of any suitable accommodation in lieu of the demised shop being occupied by the Petitioner. The Ld. Rent Controller dismissed the petitioner's application by observing inter-alia -

“5. By way of present application, respondent/tenant sought the production of some documents i.e. Lease deeds of the shops given on rent to Go colours and Meena Bazar. It has been specific averments of the counsel for respondent/tenant that the production of these documents is quiet essential for just decision of the case. In reply to the application, it has been submitted by the petitioner/landlord that the above stated shops are under the ownership of his wife and son and same has been let out by them. These lease deeds have no concern with the controversy of the present case. The present eviction application is primarily concerned with the demised shop and other shops in the names of other family members have no concern with the same. Petitioner/landlord has sought eviction of the tenant from the demised shop for his own personal bonafide necessity. Respondent/tenant failed to disclose, how production of these lease deeds are necessary in the present case. Accordingly, the application filed by the respondent/tenant is without any merit and same is hereby dismissed without expressing any opinion on the merits of main case.”

4. This Court has perused the available material on record and heard the submissions of Ld. counsel for the Petitioner at length.

5. At the very outset, it may be observed that the machinery of the Rent Controller's Court cannot be used by either side for the purpose of fishing

out any evidence to help any party on merits. To that extent, any direction upon the Respondent/Landlord to produce any document which would have helped the Petitioner/Tenant to ostensibly demolish the credibility of landlord's own Eviction Petition, would have appeared to be uncalled for. It is however, seen that in his reply to the Eviction Application, the Petitioner had made certain averments, which are very consistent with his contentions for discovery/production of original documents. The relevant averments in the Petitioner's reply on these points, which are not being reproduced here for the sake of brevity, are contained in Paras 6 and 10 to 16 in his reply (Annexure P-2), the sum and substance of which is that the Respondent/Landlord had actually prepared the Sham Transfer Deed in favour of his wife and minor children only to make out a case that he does not retain any suitable accommodation in lieu of the demised shop for his personal bona fide need and necessity, that the Family Settlement so relied upon by him has no legal sanctity being not registered in accordance with law, and that in any event, the fact that the Respondent continues to reside with his own wife who has been ostensibly made guardian of his own children itself indicates the sham nature of the alleged instrument/document of Family Settlement.

6. Without commenting on the merits of the above factual allegations raised on behalf of the Petitioner at this stage, this Court is of the opinion that while there is no manifest illegality in the impugned order of the Ld. Rent Controller in rejecting the petitioner's application for discovery/production of documents, yet the substance of the factual contentions raised on his behalf regarding the alleged Sham nature of Family Settlement and its related documents imputed to the

Respondent/Landlord, ought to be scrutinized closely by the Rent Controller in order to determine whether the Respondent's claim of bonafide personal necessity would sustain in the light of the Petitioner/Tenant's specific averments in Paras 6, and 10 to 16 of his reply, on the basis of which the following specific issues are identified -

- i) Whether the unregistered Family Settlement vide which any portion of the premises originally belonging to the Landlord, creates any independent Title in favour of his wife and minor children ? and,*
- ii) What is the bearing of such document of Family Settlement in determining the Landlord's claim of bonafide necessity of the demised shop for personal use and occupation ?*

7. The Ld. Rent Controller shall include the aforesaid specific issues along with other issues framed/to be framed in the case, and shall thereafter proceed to answer the same after completion of trial on its own merits.

8. The Revisional Application is disposed of with the above direction.

(SUDIP AHLUWALIA)
JUDGE

November 01, 2018
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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |