

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Revision No. 7639 of 2018(O&M)

Date of Decision: December 11, 2018.

Yash Pal

..... PETITIONER (s)

Versus

Satwant Kaur

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Premjit Kalia, Advocate
for the petitioner.

None for the respondent/caveator.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

The petitioner is aggrieved of judgments dated 20.04.2017 and 02.07.2018 passed by the learned Rent Controller, Amritsar and the learned Appellate Authority, Amritsar, respectively, whereby ejectment of the petitioner has been ordered.

Respondent/landlady filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of the petitioner from the demised premises i.e., a shop as detailed in the petition. Eviction of the

petitioner was sought on account of the tenant being in arrears of rent, non-payment of house tax etc., causing nuisance, personal bonafide necessity and for running of business by her husband who had retired from the Health Department as well as for her two sons. Petition was resisted by the present petitioner. Written statement was filed. Replication was filed by the respondent.

On the basis of pleadings of the parties, following issues were framed by the learned Rent Controller:-

1. Whether the respondent is in arrears of rent at the rate claimed in the petition for the period w.e.f. 01.12.2010? OPA
2. Whether the applicant has failed to pay house tax @ 15% per annum plus fire tax on the rent premises? OPA
3. Whether demised shop is required by the applicant for use of her husband Partap Singh as well as her both sons? OPA
4. If issues no.1 to 3 are proved in favour of applicant, whether applicant is entitled to get ejectment of the respondent from the demised premises? OPA
5. Whether present application has been filed by applicant only to put pressure upon the respondent to enhance the rate of rent? OPR
6. Relief.

Evidence was led by both the parties to substantiate their respective claims.

Learned Rent Controller, Amritsar allowed the petition filed by the respondent-landlady vide impugned judgment dated 20.04.2017. Appeal filed by the petitioner was dismissed by the learned Appellate Authority, Amritsar vide judgment dated 02.07.2018. Aggrieved therefrom, the present revision petition

has been filed.

Learned counsel for the petitioner vehemently argues that both the learned courts below have grossly erred in allowing the petition filed by the respondent-landlady. Evidence on record indicates that the petition had been filed only with a view to pressurize the petitioner to increase the rent. Business was already being carried on by the respondents at the adjoining shop and there was no necessity for vacation of the shop in possession of the petitioner. Moreover, the respondent-landlady concealed material facts inasmuch as the building where the shops are located, is a double storey building with sufficient space available for the landlady, her husband and sons to carry on their business therein. Reference is also made to the cross-examination of AW1 Satwant Kaur (landlady) and her husband, Partap Singh (AW3) to argue that the landlady was not even clear as to whether her husband wished to join the existing business or wanted to run the same independently. It is thus prayed that this petition be allowed.

I have heard learned counsel for the petitioner and have gone through the photocopy of the record produced by him in Court today.

Relationship of landlord and tenant between the parties is not in dispute. Eviction petition filed by the respondent-landlady has been allowed on the ground of her personal bonafide necessity. Respondent-landlady has led clear, cogent and positive evidence on record to prove that she requires the premises for running a business by her husband, who has retired as a Pharmacist from the Health Department and her two sons. Mere fact that the husband and elder son were participating in the existing business which was being run on the

adjoining premises, cannot be a ground to non-suit the respondent. So-called admissions pointed by learned counsel for the petitioner in the statements of the landlady and other witnesses are not material and do not in any manner detract from the case set up by the respondent. Respondent-landlady alongwith her husband and sons, Pritpal Singh and Amitpal Singh have clearly deposed before the learned Rent Controller in regard to the personal bonafide necessity for running independent business of the family members. It is rightly held by both the learned courts below that inter-se relations of the parties and requirement of the sons & husband of the landlady to run their own business in the demised premises, can certainly be considered while assessing bonafide requirement of the respondent. It is truthfully revealed by the landlady that the premises in question comprise of two floors. It is stated that four out of the five shops which are in the building have been converted into one big unit by the landlady from where business is being run by them. One of the shops i.e., the demised premises is in possession of the petitioner. The second floor is being used for residential purpose.

It is also proved on record that the respondent's husband AW3 Partap Singh as well as their son AW4 Pritpal Singh have the requisite license for running the business of sale and purchase of medicines. It has also come on the record that the other son of the respondent-landlady was pursuing his MBA. Reliance on the so-called admission by AW2 Tarsem Singh to the effect that the landlady had asked the petitioner to enhance the rent is of no relevance for the reason that there is no specific detail forthcoming in this respect. It is rightly observed by the learned Appellate Authority that the said stray reference is not of

any relevance.

Learned counsel for the petitioner is unable to point out any infirmity, illegality or perversity in the impugned judgments dated 20.04.2017 and 02.07.2018 passed by the learned Rent Controller, Amritsar and the learned Appellate Authority, Amritsar, respectively, which warrants any interference by this Court in exercise of revisional jurisdiction.

Revision petition is accordingly dismissed.

December 11 , 2018.
'om'

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No