

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

Civil Revision No. 4721 of 2002

Date of Decision: 31.08.2018

Raksha Wati

.....Petitioner

versus

Sarjiwan Kumar

.....Respondent

CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE

Present : Mr. Vivek Suri, Advocate, for the petitioners.
Mr. Harveen Kaur, Advocate, for the respondent.

KRISHNA MURARI, CHIEF JUSTICE

This civil revision arises out of a landlord-tenant dispute under the East Punjab Urban Rent Restriction Act, 1949. We have heard learned counsel for the parties. Relevant facts in a nut-shell can be summarized as under:-

2. The petitioner-landlady filed an application under section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the Act') against the respondent-tenant seeking his ejection from the premises in dispute on following allegations:-

The demised premises which is a room forms part of a residential building of the petitioner and the respondent was a tenant therein on a monthly rent of ₹ 700/- per month; the tenant converted the same into non-residential without any valid permission from the Rent Controller as required by law; the petitioner had a big family and required the demised premises for her bonafide need and necessity for the purpose of accommodation of her family and in case the premises in question is found to be a shop, the same was required to set up her two sons in business who have no other shop in the bazar to do their business.

3. The application was contested by the respondent-tenant denying that the demised premises form a part of the residential building. It was further pleaded that the demised premises is a shop situated in the main bazar known as Goal Market and is surrounded by the shops on both sides. The relationship of landlady and tenant and rent of ₹ 700/- per month was admitted. The allegation made in the application by the landlady to establish her sons in the business was also denied. It was categorically pleaded that the petitioner and her family own three houses out of which two had been let out on rent besides there are two godowns and one shop and the two sons of the petitioner are carrying on their shuttering business from the said two godowns owned by the family. It was also pleaded that prior to the respondent having become a tenant, one Darshan Singh son of Jagir Singh was a tenant who was running a confectionary shop in the demised premises and after paying licence fee to the Municipal Committee, necessary certificate under section 13 of the Punjab Shop and Commercial Establishment Act, 1958 was obtained. It was also asserted that since the landlady had refused to accept the rent, the same was being deposited in the Court.

4. On the basis of the pleadings of the parties, the Rent Controller framed the following three issues for determination:-

- i) Whether the respondent has changed the user of the demised premises without permission of the Rent Controller?
- ii) Whether the petitioner requires the demised premises for her own use and occupation and that of her family?
- iii) Whether the tender is legal and valid?

5. In so far as issue No.1 is concerned, the Rent Controller decided the issue in favour of the tenant and against the landlady holding that the landlady has failed to establish that the tenant has changed the user of the demised premises. The findings of issue No.1 were affirmed by the Appellate Court while dismissing the appeal filed by the landlady.

6. Learned counsel for the petitioner-applicant at the outset made a statement that he is not pressing the ground in respect of change of user of the demised premises from residential to non-residential by the tenant without permission. In view of the aforesaid statement made by learned counsel for the petitioner before me, the first issue is not required to be gone into.

7. In so far as issue No. (ii) is concerned, both the fact finding Courts i.e. Rent Controller and the Appellate Court after analyzing the pleadings of the parties and also the evidence brought on record held that the landlady has failed to prove her bonafide requirement of the demised premises. The two authorities below have referred to the evidence adduced by the landlady on this issue and found that the witnesses examined by her during cross-examination admitted that the sons of the landlady are already doing business of shuttering from the godown owned by her. The two authorities below have also taken note of the fact that even though one of the sons of the landlady appeared in the witness box and stated that he required the property for business purposes but failed to disclose the nature of business for which the property was required. The fact that the godown situated at Mandi Gobindgarh was owned by the family and he is running the business therefrom was also admitted. Reliance has also been placed on the evidence brought on record that one of the sons of the landlady owns a

shop in Mandi Gobindgarh which has been let out on rent and there were two more godowns in their ownership which were in their possession.

8. On analysis of the aforesaid evidence oral as well as documentary on record, the fact finding authorities come to the conclusion that there was no bonafide requirement of the landlady for the same. In this connection, it is relevant to notice some more facts which are borne out from the record. In the Original Application filed under section 13 of the Act, the landlady had not taken the plea of requirement of the shop in question for setting up her two sons in business. It was subsequently introduced in the pleadings by way of amendment. Even the plea added by way of amendment was vague and evasive and not sufficient to establish the bonafide need and requirement inasmuch as it was not detailed as to whether her sons have been doing business or not or were totally unemployed or idle. The factum of the sons already doing shuttering business for the last so many years in the godown owned by the family for the last 18 to 20 years was brought on the record of the case by the tenant-respondent. Similarly, the fact pleaded by the respondent that prior to he was inducted as a tenant, the demised premises was under the tenancy of one Darshan Singh was denied by the landlady but it was established by the evidence on record that erstwhile tenant Darshan Singh was running a confectionary shop from the demised premises and vacated the same in 1991. In case there was any bonafide need of the landlady, there was no reason or occasion to have let out the premises. In case she choose to let out the premises after it was vacated itself goes to show that there was no bonafide need.

9. It is well settled proposition of law that the conditions mentioned for seeking ejectment under section 13 of the Act are not only liable to be completed but also proved and unless the same are satisfied the

eviction is not liable to be ordered. Reference may be drawn to the judgment of the Full Bench of this Court in case ***Banke Ram v. Sarasati Devi 1977 RLR 417***, wherein it has been held as under:-

“It is clear from a combined reading of Section 13(1) and sub section (3) of Section 13 that the landlord is not entitled to get the premises vacated unless he is able to prove the conditions contained in the various sub clauses of sub sections (2) and (3) of section 13. These sub sections are an essential part of sub clause (a).”

10. In the case in hand, it was established by cogent evidence which has been thoroughly discussed by the two fact finding authorities to return a finding that the petitioner-landlady had no bonafide need of the demised premises. Once she has failed to establish her need, the proceedings initiated by her under section 13 of the Act have rightly been rejected by the two Courts below and there cannot be any exception to that.

11. The revision before this Court is concluded by findings of fact based on proper appraisal of evidence. Even during the course of arguments, learned counsel for the petitioner failed to demonstrate that any of the findings of fact is vitiated either because of misreading of any evidence or for non-consideration thereof. It is well settled proposition of law that unless it is demonstrated that findings of fact are vitiated on account of either of the aforesaid two reasons, the same are not liable to be interfered with.

12. In view of the aforesaid facts and discussion, I am not persuaded to interfere in the impugned orders. The revision petition is devoid of merits and accordingly stands rejected.

(KRISHNA MURARI)
CHIEF JUSTICE

31.08.2018
ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No