

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

CR No.2508 of 2018 (O&M)

Date of Decision: 25.09.2019

Ashok Kumar and another

..... Petitioners

Versus

Ruldu Ram Passi

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Y. S. Turka, Advocate
for the petitioners.

Mr. Sapan Dhir, Advocate
for the respondent.

SUDIP AHLUWALIA J. (ORAL)

This revision is directed against the concurrent findings of the Ld. Rent Controller and the Ld. Appellate Authority-cum-Additional District Judge, Mohali, vide which the petitioners, who are the tenants under the respondent-landlord, were ordered to be evicted from the demised premises, being one shop divided into distinct portions. The main ground for eviction was the personal necessity of the respondent-landlord to help his son to establish his Computer Business in the said premises.

2. The basic challenge to the impugned decisions dated 05.03.2015 and 05.12.2017 is with the contention that one single eviction petition against the different tenants, although for two separate tenancies, in one single shop-room was not maintainable. To support this contention,

decisions of this Court in “**Manohar Singh Sarhadi v. Ramji Dass**”, 1990 (1) R.C.R. (Rent) 227 and “**Kailash Chand vs. Mool Raj Sondhi**”, 1987 (2) RCJ 2, had been cited.

3. The respondent-landlord from his side, thereafter, relied on the subsequent decision of this Court in “**Krishan Gopal & Another vs. Ramesh Kumar Jain**”, 2016 (2) R.C.R. (Civil) 221.

4. The reliances of the petitioners, including the one in **Manohar Singh's case (supra)**, were distinguished by the Co-ordinate Bench of this Court after quoting certain other previous decisions of this Court and observing *inter alia*:-

“7. A perusal of the eviction petition which has been filed, copy of which has been placed on record, would clearly indicate that it has been specifically mentioned that these two shops are integral part of one building and, therefore, the contention of the counsel for the petitioners that the petition against two tenants would not be maintainable, cannot be accepted as Section 13 (3) of the Act talks about 'a building.' The contention, thus, of the counsel for the petitioner, stands rejected.

8. As regards the reliance of the counsel for the petitioners on the judgments of this Court in **Surender Singh's case (Supra)** is concerned, that was a case where the ownership has fallen into different hands because of the succession where the landlords were different after the partition and had been collecting rent separately in their individual capacity as landlord from the tenants. Present is a case where there is no dispute that the landlord is one and also the owner of the premises.

9. *In Manohar Singh's case (Supra) the plea which was taken was that one petition cannot not be maintainable against two separate tenancies. Suffice it is to say that in the said case the premises had been sought to be evicted on the ground of sub-letting by taking a plea that the chabutra portion had been sub-let which was constructed later which led to the building being divided into two portions, one for commercial purpose and another for the residential. Further the Court observed that there was no sub-letting of the premises as the person who was residing there was related to the tenant and was only in his absence residing to take care of the goods which were lying in the premises on the ground floor. The said judgment also, therefore, would not be of any help to the petitioners."*

5. In the present case also, there is no dispute that the respondent-landlord happens to be common on the two different tenants and also being owner of the premises. To that extent, the reliance of the respondent-landlord would clearly apply to the facts of this case.

6. It has nevertheless been argued on behalf of the petitioners that the decision in ***Krishan Gopal's case (supra)*** was pronounced by this Court in relation to an eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, (for short 'the Act'), whereas in the present case, eviction of the tenants has been sought under Section 13 (3)(a) of the Act, which pertains only to those cases in which eviction of the tenants is sought on the ground of personal necessity of the respondent-landlord or any of his extended family members, whereas in

the case of petitioners under Section 13(1) and (2), the grounds of eviction essentially arise on account of any misconduct or omission on the part of the tenants.

7. In the opinion of this Court, this is clearly a misplaced submission because maintainability of an eviction proceeding as framed is altogether independent of the specific grounds on which such eviction may be sought. Merely because the ground of personal *bona fide* requirement of the landlord for one shop having distinct portions has been invoked, itself would not render the eviction petition non-maintainable, so long as the ground relied upon is proved and established on merits by the respondent-landlord.

8. It was also sought to be argued on behalf of the petitioners that the ground of personal *bona fide* requirement of the respondent-landlord for the purpose of occupation of his son to start his business therein had not been properly considered by both the Ld. Courts below in the light of evidence led in the case.

9. This Court is also not convinced with such submission because perusal of the depositions of both, the respondent-landlord (PW-1) as also his son Anand Gautam (PW-2), which are on record as Annexures P-1 and P-2, respectively, does not reveal any such material helpful to the petitioners-tenants, which could have had the effect of leading to any conclusion that the concurrent findings of both the Ld. Courts below regarding the question of *bona fide* personal requirement of the landlord's son of the demised shop are *ex-facie* perverse.

10. Needless to mention that in its revisional jurisdiction, this Court is not expected to re-appreciate the evidence in a case of concurrent findings in the absence of any striking or manifest perversity to which attention of the Court might be drawn.

11. This Court, therefore, finds no merit in the present revision petition and the same, thus, stands dismissed.

(SUDIP AHLUWALIA)
JUDGE

September 25, 2019
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No