

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

CR No.3033 of 2012 (O&M)

Date of Decision: October 22, 2019

Manish Ralhan

.... Petitioner

Versus

Ajay Kumar & Anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. H.N.Mehtani, Advocate for the Petitioner.

Mr. Vikas Bahl, Senior Advocate assisted by
Mr. Nitish Garg and Ms. Aarzoo B. Garewal, Advocates
for the Respondents.

SUDIP AHLUWALIA, J.

This Revisional Application is directed against the Judgment dated 06.03.2012 passed by the Ld. Appellate Authority, Chandigarh in Rent Appeal No.112 of 2009 affirming the Judgment of the Rent Controller, vide which the Eviction Petition filed by the Respondents/Landlords under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 had been allowed.

2. The Petitioner happens to be the Tenant under the Respondents in respect of a portion of SCO No.815-D, Kalka-Chandigarh Road, Manimajra, U.T., Chandigarh on an area measuring 7' x 8" x 24' x 7" situated on the Groundfloor of the concerned premises. The Respondents/Landlords claimed to have purchased the said SCO from its Erstwhile Owner Smt. Surekha wife of A.K.Jain by a registered Sale Deed dated 25.1.2005, after which, the Petitioner has been paying the rent to them directly on being informed about such purchase. Earlier, he was a Tenant under the previous Landlady after

being inducted as such on the basis of Lease Deed executed in the year 1999.

3. The Respondents filed the Eviction Petition in the Court of Ld. Rent Controller, Chandigarh seeking vacant possession on two grounds. Firstly, they alleged that the Petitioner had unauthorizedly sublet the demised premises to “M/s Silver Art Jewellers”. Secondly, it was also the Claim that the demised premises was required by the Respondent/Landlord No.1 Ajay Kumar Jindal for his personal use and occupation, since he was running a Real Estate Agency/engaged in property dealing business since the year 1989, and the total area in his occupation in the concerned premises happens to be only 8' x 3" x 24' x 7". It was further contended that he had also engaged himself subsequently in construction business on account of which, the Building space available to him for his business to accommodate his Clerk, Stenographer and Customers etc. was grossly insufficient, and there was no privacy in the space actually available to him due to which, it is not possible to make separate Cabins/Compartment for the Clerk and Stenographer.

4. The first ground for seeking eviction of the Petitioner/Tenant i.e. subletting of the premises was decided against the Landlords. But his eviction from the same was nevertheless ordered, since both the Ld. Courts below came to the conclusion that the Landlords/Respondents had succeeded in making out a case of reasonable and bona fide personal requirement of Respondent Ajay Kumar Jindal.

5. In its Revisional Jurisdiction, this Court is not expected to

reappreciate the evidence led by the parties in deciding a particular issue of fact where the findings happen to be concurrent.

6. Nevertheless, three points have been urged before this Court on behalf of Petitioner. These happen to be -

- (a) That admittedly, the Respondent/Landlord No.2 namely Gian Chand is in service in a Bank and as such, there is no question of his requiring the premises for his personal use and occupation, as by definition, he cannot engage himself in any business so long as he remains in employment;
- (b) That during pendency of the proceedings arising out of the present Eviction Application, Commercial space measuring 500 Square Feet on the First floor of the same SCF has become available to the Respondents after the same was got vacated from one Satpal Singh, and consequently their alleged requirement of demised premises cannot be regarded as bonafide, and,
- (c) That allotment of the original Site in favour of Respondents' Predecessor Smt. Surekha was itself quashed by a Division Bench of this Court in CWP No.3271 of 1982 vide its Judgment dated 8.5.2012 on account of which, the alleged Title she passed on in favour of the present Respondents also becomes tainted. As such, the Respondents cannot be regarded as bonafide owners of the disputed premises.

7. Regarding the submission that since the Landlord Shri Gian Chand is a Bank employee, and so the Claim of Landlords of

requiring the demised premises for personal use and occupation is unfounded, it may be mentioned that the Claim was limited only to the extent of personal requirement of Landlord Shri Ajay Kumar Jindal alone, which has been found to be genuine by both the Ld. Courts below. The mere fact that Respondent No.2 happens to be a co-owner of the concerned property alongwith his brother Ajay Kumar Jindal can by no means be construed as implying that even the personal necessity of Ajay Kumar Jindal, who is admittedly a Businessman and running his business from a smaller portion on the Groundfloor of the same SCO is not bonafide.

8. With respect to the Second contention raised on behalf of the Petitioner, this Court is of the opinion that any different space or accommodation having become available to the Landlords during pendency of the present Eviction Proceedings is inconsequential, since their entitlement to seek eviction of the present Petitioner was on the basis of certain rights, which had crystalized on the date when the original Eviction Application against him was filed. Even otherwise, the concerned Landlord is in possession of an area on the Groundfloor itself, is slightly less than that in occupation of the Petitioner/Tenant. So amalgamation of his business by way of including the contiguous area situated on that particular floor itself, which undoubtedly in any given circumstances would always be preferable to be located on the Groundfloor in comparison to an upper floor accessible by stairs, in the interest of good business. At any rate, it is the settled law that the Landlord is the best Judge of his needs and requirements, and it is not for a Tenant or any other Authority to

guide him as to how he may use or enjoy his personal properties.

9. The contention regarding Title of the Landlords being allegedly tainted is altogether untenable. It is to be noted first of all that in Para 2 on merits in his Reply to the Eviction Petition, the Petitioner/Tenant had admitted that he has been paying rent to the Respondents. In such circumstances, he is statutorily barred from challenging the Title of his admitted Landlords, although the Division Bench Order of this Court quashing the allotment in favour of Landlords' vendor Smt. Surekha/original Allottee has itself not yet attained finality, since an SLP against the same is admittedly pending in the Supreme Court. At any rate, any reliance upon the aforesaid Judgment of the Division Bench of this Court is itself a dangerous double edged weapon, which if acted upon, would obligate the authorities to summarily take possession of the disputed premises by vacating the original Allottee, their assignees and including occupiers thereof (which should necessarily mean the Petitioner/Tenant in the present case) in view of direction No.5 of the concerned Judgment dated 8.5.2012, which is set out as below -

“5. In case, the allottees or their assignees, including the occupiers thereof, fail to vacate the premises within three months, the Municipal Corporation shall take the possession of the same under the provisions of The Public Premises (Eviction of Unauthorized Occupants) Act, 1971.”

10. For the aforesaid reasons, this Court finds no justification to interfere with the impugned orders passed by both the Ld. Courts

below. Dismissed.

11. The Petitioner is however, granted time of two months from today to vacate the demised premises and deliver its possession peacefully to Respondents, during which period, any execution proceedings against him shall remain stayed.

12. He shall however, continue to pay the rent diligently during this period failing which, he would become liable to be evicted summarily. This order shall automatically lapse after expiry of two months from today.

(SUDIP AHLUWALIA)
JUDGE

October 22, 2019
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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |