

**259 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

CR No.5465 of 2010

Date of Decision: 4.7.2019

Pushpa Ahuja and another .....Petitioners  
Versus

Rajender Kumar Bajaj and another .....Respondents

CR No.5883 of 2011

Pushpa Ahuja and another .....Petitioners  
Versus

Rekha Wadhwa and another .....Respondents

CR No.5894 of 2011

Pushpa Ahuja and another .....Petitioners  
Versus

Rekha Wadhwa and another .....Respondents

CR No.5466 of 2010

Pushpa Ahuja and another .....Petitioners  
Versus

Rajender Kumar Bajaj and another .....Respondents

CR No.5467 of 2010

Pushpa Ahuja and another .....Petitioners  
Versus

Rajender Kumar Bajaj and another .....Respondents

**CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR**

Present: Mr. Vikas Bahl, Sr. Advocate with  
Mr. Divanshu Jain, Advocate and  
Ms. Aarzoo B. Grewal, Advocate, for the petitioner-landlords  
in CR Nos.5465 to 5467 of 2010.

Mr. Sushant Kareer, Advocate, for the petitioner-landlords in  
CR Nos.5883 and 5894-2011.

Mr. Sameer Sachdeva, Advocate, for the respondent-tenants

**NIRMALJIT KAUR, J.**

All the above mentioned civil revision petitions shall stand disposed of by this common order. The facts are being taken from CR-5465-2010.

The petitioner-landlords have filed the present revision petitions against the impugned order dated 31.5.2010 passed by the Appellate Authority in favour of the respondent-tenants. The petitioner-landlords have filed eviction petitions under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 seeking eviction of the respondents from the property in dispute being shop No.1, ground floor measuring 10x15 feet out of SCF No.54, Sector, 15, Faridabad. The eviction petitions were filed on the grounds of non-payment of rent, personal necessity, material alteration and change of usage.

Learned counsel for the petitioner-landlords while praying for setting aside the order dated 31.5.2010 passed by the Appellate Authority submitted that the respondent-tenants had made alteration in the premises. Hence, HUDA authorities issued notice dated 5.3.2002 to the petitioner-landlords to remove the alteration. The petitioners were, therefore, forced to filed eviction petitions. Besides the aforesaid grounds, learned counsel for the petitioner-landlords took the ground that since, the husband of the petitioner died in the year 1994 leaving behind petitioner No.1 as his legal heir alongwith two minor sons, namely, Sandeep Ahuja and Gaurav Ahuja and one minor daughter. The eviction petitions were filed with the averments that the property in dispute was required by Gaurav Ahuja, son of petitioner No.1, who had become major, for personal use and occupation in order to do his business to earn his livelihood. The Rent Controller accepted

the pleas, whereas, the Appellate Authority reversed the findings.

The present civil revision petitions were admitted way back in the year 2011. However, the revision petitions were finally taken up for hearing on an application filed by the petitioner-landlords for disposing of the above revision petitions in terms of the order dated 6.3.2014 passed by this Court in CR No.6594 of 2010, titled as Anil Kumar Ahuja and another vs. Anurag Bansal and other connected cases. The Co-ordinate Bench of this Court while disposing of the application for disposal of the present revision petitions on 12.11.2018 ordered the matter to be listed for final disposal.

Today, learned counsel for the respondent-tenants while vehemently arguing submitted that the cases in hand are different from Anil Kumar Ahuja's case (supra), which was allowed vide judgment and order dated 6.3.2014 to the extent that the premises which were got vacated on the ground of personal necessity have been let out subsequently, hence, the personal necessity is only a sham. Secondly, he is ready to pay the compounding fee for the violation on the basis of which building is being resumed. Thirdly, he has no objection, if the landlords themselves remove the violation and that he is ready to co-operate with them for removing the same. It was further argued that the order for resumption was passed way back in the year 2002, but till date nothing has been done to get the order of resumption set aside. Thus, the resumption order is got issued by the landlords themselves to use the same for eviction of the tenants and in any case, the respondents are not required to be evicted for removing of the violation as kind of violations that are pointed, can be removed without requiring the tenants to be evicted. Besides the above argument, it was

submitted that there was bar under the Act that the second eviction petition can be filed in case another premises or building has already been got evicted on similar ground.

Heard.

This Court does not find anything to distinguish the present revision petitions from Anil Kumar Ahuja's case (supra). A perusal of the said judgment would show that reliance was placed upon a notice issued by HUDA requiring the petitioners to bring the building in conformity with the Building Bye-laws. Demolition notice dated 14.6.2001 was issued with respect to the entire SCF No.54, Sector-15, Faridabad. The premises are same. The resumption order dated 21.11.2011 has also been placed on record, which is common to all the premises in dispute in the present revision petitions as well as in Anil Kumar Ahuja's case (supra). The ground in each were also same. The arguments so raised by learned counsel for the respondent-tenants, therefore, do not help, as the order dated 6.3.2014 passed in Anil Kumar Ahuja's case (supra) was passed after taking into account similar arguments as raised herein. They were brushed aside in view of the imperative need of the premises to be vacated from the tenants in order to obviate the consequences of resumption of the building by holding as under:-

“As observed earlier that in the eventuality of the landlords being confronted with the peril of losing their premises to the Local Authorities on account of violations which they intend to remove to protect their property, then such a case would also be construed to be a genuine need requiring eviction of the tenants so that the petitioners can take appropriate steps in this regard.”

The argument that the petitioner-landlords have done nothing

to remove the violation or to get the order of resumption set aside, has no merit. Learned counsel for the petitioners has placed on record an application dated 5.12.2014 supported by an affidavit seeking for recalling of the order of resumption and eviction passed under Sections 17 and 18 of the HUDA Act with respect to SCF No.54, Sector-15, Faridabad, in which, specific undertaking has been given that he shall remove the violation after eviction of the tenants for which, various eviction petitions have been filed. In fact, another learned Single Bench of this Court vide its order dated 19.9.2017 passed in CR No.5181 of 2015 titled as Proprietor Sh. Karan Kapoor vs. Sukhjit Singh and others while going into the question whether the landlord is entitled to seek eviction of the tenant on the ground that since resumption order has been passed for alleged violation in the demised premises, held that, in case, the property is resumed, the landlord would lose his ownership and therefore, to avoid such situation, the landlord was well within his right to seek the eviction.

In view of the above, the present revision petitions are also allowed in terms of the order dated 6.3.2014 passed in Anil Kumar Ahuja's case (supra).

(NIRMALJIT KAUR)  
JUDGE

4.7.2019  
sharmila

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|---------------------------|---|--------|
| Whether Speaking/Reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |