

239

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

**CR No.4937 of 2018 (O&M)
Date of Decision: January 16, 2019**

Gian Chand

..... Petitioner

Versus

Sunita

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Sudhanshu Makkar, Advocate
for the petitioner.

Mr. Narender Kumar Vashist, Advocate
for the respondent.

SUDIP AHLUWALIA J. (ORAL)

1. This revision is directed against the impugned judgment dated 10.07.2018 passed by the Ld. Appellate Authority, Bhiwani whereby the earlier judgment, of eviction against the present petitioner-tenant under the respondent in Rent Petition bearing No.RBT 146 of 2013, dated 19.09.2017 passed by the Ld. Rent Controller, Bhiwani was upheld and the present petitioner was directed to vacate the demised shop after holding that the respondent-landlady did require the said shop *bona fide* for her personal use and occupation.
2. It has been urged on behalf of the petitioner that he is a legal representative of the original tenant in the demised shop namely, deceased-Tulsi Dass. The said tenancy was inherited by him and the

other legal representatives but only his eviction was sought by the respondent-landlady without impleading the other legal heirs on account of which the eviction petition was bad for non-joinder of necessary parties and therefore ought to have been dismissed.

3. This Court has gone through the copy of the written statement filed on behalf of the petitioner before the Ld. Rent Controller, which was made available by the petitioner's counsel on the Court's query itself. Perusal of para Nos.9 and 11 of the same goes to show that there was a general preliminary objection to the effect that the eviction petition was bad in law for mis-joinder/non-joinder of necessary parties. But it was nowhere mentioned as to who all were the legal representatives, who ought to have been joined as co-tenants after the death of the original tenant-Tulsi Dass.

4. This, in the opinion of this Court, was not sufficient to render the suit rejectable outright on the ground of non-joinder of necessary parties. It is, however, further submitted by Ld. counsel that subsequently his client did file an application seeking amendment of the original written statement under Order 6 Rule 17 of the Code of Civil Procedure for the purpose of taking a specific plea regarding describing/mentioning about the other legal representatives who ought to have been impleaded as necessary parties. But the said amendment application was rejected. The rejection order was not challenged before any superior forum and had, therefore, attained finality.

5. In this view of the matter, in the opinion of this Court,

therefore, the observations of the Ld. Court(s) below in holding that the eviction petition could not be held to be bad for non-joinder of necessary parties at the instance of the sole respondent himself who had been very evasive about this aspect in his original written statement was eminently justified.

6. It has been, thereafter argued on behalf of the petitioner that even otherwise the respondent-landlady could not discharge her burden of proving that she needed the demised premises for her personal use and occupation to run her own Beauty Parlour in the said shop, as she could not show any actual experience of having been engaged in that trade, notwithstanding the fact that she had a valid Trade Licence at some point of time for that purpose.

7. This submission of the petitioner again is unconvincing since it is settled law that the landlord, is the best judge of his own requirements, and it is in any case not for the Court in its revisional jurisdiction to re-appreciate the evidence in this regard, when concurrent findings in favour of the respondent-landlady have been returned by both the Ld. Courts below.

8. This Court, thus, finds no merit in the present revision petition which is therefore dismissed.

9. In the interest of justice, however, the petitioner is granted time till 30th April, 2019 to vacate the demised premises and deliver its possession peacefully to the respondent-landlady subject to his continuing to pay the rent for each month at the prevailing rate till he

actually vacates the premises. During this period, any execution proceedings pending against the petitioner shall remain stayed. This order will thereafter automatically stand vacated from 1st May, 2019.

January 16, 2019
rittu

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No