

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

CR No. 7916 of 2015(O&M)

Date of Decision:21.01.2019

Harbans Singh

.....Petitioner

Versus

Balwinder Singh

..... Respondent

AND

CR No. 7917 of 2015 (O&M)

Harbans Singh

.....Petitioner

Versus

Gurpreet Singh

.....Respondent

AND

CR No. 8337 of 2015 (O&M)

Harbans Singh

.....Petitioner

Versus

Jasbir Singh

.....Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Amit Dhawan, Advocate
for the petitioner(s).

LISA GILL, J.

This order shall dispose of C.R Nos. 7916 and 7917 of 2015 and
CR No. 8337 of 2015.

All these three petitions have been filed by the landlord, who
was unsuccessful in three petitions filed by him, under Section 13 of the East
Punjab Urban Rent Restriction Act, 1949 (for short 'Act') seeking eviction of
the different tenants in all the three premises. All the petitions have been

dismissed by the learned Rent Controller, Nakodar, vide separate impugned orders evenly dated 12.03.2013. Appeals filed by the petitioner were also dismissed by the learned Appellate Authority, Jalandhar. All three petitions are taken up for hearing together as similar grounds have been raised in all the cases.

FACTS in each of the three petitions.

CR No. 7916 of 2015

Petitioner sought eviction of the respondent-Balwinder Singh from the premises as detailed in the petition i.e. a shop given on rent for a period of 24 months at the rate of ₹1000/- per month on 01.04.2009 with a stipulation that in the event of the tenant intending to keep the shop for further period, the rent would be increased by 10%. Eviction of the respondent-tenant was sought on the ground of non-payment of arrears of rent as well as personal *bona fide* necessity. It was pleaded that the petitioner-landlord required the shop in dispute and two other adjoining shops for his personal use for conducting business by his son-Sukhwinder Singh, who had completed his hardware course of computers. It was pleaded that the petitioner's son wanted to start his business of computer assembling, computer repairs, prints solution as well as other allied works. It was averred that the petitioner was not in occupation of any other shop in the urban area concerned and had not vacated any other shop without sufficient cause after the commencement of the Act. It was further alleged that material alterations and changes had been carried out in the shop by the tenant without the consent of the petitioner.

Relationship of landlord-tenant was admitted by the respondent-

tenant. Rate of rent was disputed. Tenancy was stated to be oral. Personal *bona fide* necessity of the landlord was denied as the petitioner's son Sukhwinder Singh was claimed to be engaged in business in the shops which were already in possession of the landlord. It was denied that any material alteration or change had been carried out in the shop in dispute.

From the pleadings of the parties, following issues were framed by the learned Rent Controller, Nakodar:-

1. What is the rate of rent?OP parties.
2. Whether the respondent is in arrears of rent at the rate of ₹1100/- per month as alleged?OPA
3. Whether the demised shop is required by the applicant for use and occupation of his son?OPA
4. Whether the respondent is guilty of material alterations and changes in the shop in dispute without the consent of the petitioner?OPA
5. If issue nos. 2 to 4 or any of them is proved in the affirmative, whether the petitioner is entitled to order of eviction against the respondent?OPA
6. Whether the application is not maintainable?OPR
7. Whether the applicant has no locus standi and cause of action to file the present petition?OPR
8. Whether the petitioner is guilty of concealment of material facts?OPR
9. Relief.

CR No. 7917 of 2015.

Petitioner sought eviction of the respondent-Gurpreet Singh from the premises as detailed in the petition i.e. a shop given on rent for a period of 11 months at the rate of ₹900/- per month on 01.05.2007 with a stipulation that in the event of the tenant intending to keep the shop for

further period, the rent would be increased by 10% after every three years. Eviction of the respondent-tenant was sought on the ground of non-payment of arrears of rent as well as personal *bona fide* necessity. It was pleaded that the petitioner-landlord required the shop in dispute and two adjoining shops for his personal use for conducting business by his son-Sukhwinder Singh, who had completed his hardware course of computers. It was pleaded that the petitioner's son wanted to start his business of computer assembling, computer repairs, prints solution as well as other allied works. It was averred that the petitioner was not in occupation of any other shop in the urban area concerned and had not vacated any other shop without sufficient cause after the commencement of the Act. It was further alleged that material alterations and changes had been carried out in the shop by the tenant without the consent of the petitioner.

Relationship of landlord-tenant was admitted by the respondent-tenant. Rate of rent was disputed. Tenancy was stated to be oral. Personal *bona fide* necessity of the landlord was denied as the petitioner's son Sukhwinder Singh was claimed to be engaged in business in the shops which were already in possession of the landlord. It was denied that any material alteration or change has been carried out in the shop in dispute.

From the pleadings of the parties, following issues were framed by the learned Rent Controller, Nakodar:-

1. What is the rate of rent?OP parties.
2. Whether the respondent is in arrears of rent at the rate of ₹1089/- per month as alleged?OPA
3. Whether the demised shop is required by the applicant for use and occupation of his son?OPA

4. Whether the respondent is guilty of material alterations and changes in the shop in dispute without the consent of the petitioner?OPA
5. If issue nos. 2 to 4 or any of them is proved in the affirmative, whether the petitioner is entitled to order of eviction against the respondent?OPA
6. Whether the application is not maintainable?OPR
7. Whether the applicant has no locus standi and cause of action to file the present petition?OPR
8. Whether the petitioner is guilty of concealment of material facts?OPR
9. Relief.

CR No. 8337 of 2015.

Petitioner sought eviction of the respondent-Gurpreet Singh from the premises as detailed in the petition i.e. a shop given on rent for a period of 24 months at the rate of ₹1500/- per month on 10.04.2009 with a stipulation that in the event of the tenant intending to keep the shop for further period, the rent would be increased by 5%. Eviction of the respondent-tenant was sought on the ground of non-payment of arrears of rent as well as personal *bona fide* necessity. It was pleaded that the petitioner-landlord required the shop in dispute and two adjoining shops for his personal use for conducting business by his son-Sukhwinder Singh, who had completed his hardware course of computers. It was pleaded that the petitioner's son wanted to start his business of computer assembling, computer repairs, prints solution as well as other allied works. It was averred that the petitioner was not in occupation of any other shop in the urban area concerned and had not vacated any other shop without sufficient cause after the commencement of the Act. It was further alleged that material alterations

and changes had been carried out in the shop by the tenant without the consent of the petitioner.

Relationship of landlord-tenant was admitted by the respondent-tenant. Rate of rent was disputed. Tenancy was stated to be oral. Personal *bona fide* necessity of the landlord was denied as the petitioner's son Sukhwinder Singh was claimed to be engaged in business in the shops which were already in possession of the landlord. It was denied that any material alteration or change has been carried out in the shop in dispute.

From the pleadings of the parties, following issues were framed by the learned Rent Controller, Nakodar:-

1. What is the rate of rent?OP parties.
2. Whether the respondent is in arrears of rent at the rate of ₹1575/- per month as alleged?OPA
3. Whether the demised shop is required by the applicant for use and occupation of his son?OPA
4. Whether the respondent is guilty of material alterations and changes in the shop in dispute without the consent of the petitioner?OPA
5. If issue nos. 2 to 4 or any of them is proved in the affirmative, whether the petitioner is entitled to order of eviction against the respondent?OPA
6. Whether the application is not maintainable?OPR
7. Whether the applicant has no locus standi and cause of action to file the present petition?OPR
8. Whether the petitioner is guilty of concealment of material facts?OPR
9. Relief.

Both the parties led evidence in support of their respective claims/stands.

All the three rent petitions were dismissed by the learned Rent Controller vide separate orders of even date i.e. 12.03.2013. Ground regarding nonpayment of arrears of rent, it was observed did not survive. It was further concluded that personal *bona fide* necessity of the petitioner was not proved.

Appeals filed by the petitioner were also dismissed by the learned Appellate Authority, Jalandhar, vide separate orders of even date in all the three petitions i.e. 13.08.2015.

Aggrieved therefrom, present revision petitions have been filed.

Learned counsel for the petitioner argues that both the learned Courts below have grossly erred in dismissing the petitions filed by the petitioner-landlord. Personal *bona fide* necessity of the petitioner is duly proved on record. It is submitted that the petitioner's son requires larger premises, therefore, the shop in question as well as the two adjoining shops were required. Moreover, *bona fide* necessity of the landlord is not to be adjudged from the eyes of another person. It is for the landlord to decide regarding his own needs and requirements. It is argued that merely because other shops were got vacated by the petitioner does not detract from the case set up by him. Specific pleadings have been raised by the petitioner who has himself deposed before the learned Rent Controller. Petitioner's son-Sukhwinder Singh also deposed as PW-3 and testified regarding the personal requirement and need of the premises in question. It is vehemently argued that it is for the landlord to decide whether the tenanted premises are sufficient to meet his need or not. It is thus prayed that the orders passed by the learned Courts below be set aside. Consequently, petitions filed by the

present petitioner-landlord be allowed throughout thereby ordering eviction of the respondent-tenants from the premises in question.

I have heard learned counsel for the petitioner (s) and have gone through the files with his able assistance.

It is a matter of record that the ground of nonpayment of rent was not pressed by the petitioner before the learned Rent Controller, Nakodar. Learned counsel for the petitioner is unable to dispute that the petitioner while deposing before the learned Rent Controller, Nakodar, admitted that he is the owner of six shops. At the time of filing of the three petitions in question, two of the six shops were still in his possession. One of the said shops was let out to one Parveen Jalota and Kulwinder Singh after the filing of the eviction petitions by the landlord. Petitioner while deposing as PW-1 further admitted that on the backside of all the six shops (including three shops in question) there is a big hall type shop equivalent to the combined size of all the six shops. It is further admitted that the property adjoining to the hall was lying vacant.

It is a matter of record that details of these commercial premises which are adjacent to the shops in question, were not spelled out or revealed in the three respective petitions filed by the petitioner. Petitioner in his cross-examination has admitted regarding non-disclosure of the premises as well. PW-3-Sukhwinder Singh, son of the petitioner has also admitted in his cross-examination that his father owned six shops and all of them were situated on Jalandhar Road, Nakodar. One of the shops on the link road is a big shop admittedly in possession of the father of PW-3-Sukhwinder Singh. PW-3 further admitted that they owned and possessed other property on the

same link road as well. It is a matter of record that there is active concealment on the part of the petitioner regarding the property which he admittedly owned. Three of the shops in the same area as the demised premises were lying vacant. It is admitted by the petitioner that he rented out one of the shops during the pendency of the petitions about two months prior to the recording of his statement before the learned Rent Controller. Therefore, it is not a case of the landlord giving details of the entire property and stating that he wished to carry on his business on particular premises and not on the premises which were otherwise in his possession due to some exigency or better business prospects. The present is a case of active concealment of material facts which were required to be pleaded as per the provisions of the Act. Therefore, it has been rightly held by both the learned Courts below that personal *bona fide* necessity of the petitioner is not proved on record.

No other argument has been raised.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned orders dated 12.03.2013, passed by the learned Rent Controller, Nakodar and order dated 13.08.2015 passed by learned Appellate Authority, Jalandhar, which calls for interference by this Court in exercise of revisional jurisdiction.

All the three petitions are accordingly dismissed with no order as to cost.

21.01.2019
s.khan

[LISA GILL]
Judge

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