

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

**Civil Revision No.962 of 2019 (O&M)
Date of Decision:February 13, 2019.**

Malkiat Singh

.....PETITIONER(s).

VERSUS

Ajay Sood and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. I.S. Ratta, Advocate
for the petitioner (s).

Mr. Kunwar Sood, Advocate
for the respondent (s).

SURINDER GUPTA, J.

Respondents-landlord filed petition under Section 13 of East Punjab Urban Rent Restriction Act, 1949 for ejectment of the petitioner from the demised premises (portion of House No.27/2, Central Town, Jalandhar as fully described in the head note of the petition) on the grounds of arrears of rent, personal bona fide necessity of the demised premises by respondents No.1 Ajay Sood and respondent No.3 Rohit Sood and that premises is in dilapidated condition, as such, is unfit and unsafe for human habitation.

The petitioner-tenant contested the plea as raised by respondents-landlord. It appears that plea of arrears of rent was not pressed, as such, no issue in this regard was framed by learned Rent Controller, who proceeded to decide the controversy between the parties on following

issues:-

- “1. Whether the petitioners requires the demised premises for their personal use and occupation? OPP
2. Whether the property in question is unsafe and unfit for human habitation? OPP
3. Whether the site plan attached with the petition is not correct? OPR
4. Whether the petitioners have concealed the true facts from the Court? OPR
5. Relief.”

On issue No.1, learned Rent Controller returned the findings in favour of respondents-landlord, while on issue No.2, it was observed that landlord have failed to prove that the demised premises is unfit and unsafe for human habitation. Findings on issues No.3 and 4 were returned in favour of respondents-landlord and against the petitioner-tenant.

The Appellate Authority, Jalandhar affirmed the finding of learned trial Court and dismissed the appeal filed by the revision petitioner-tenant.

Learned counsel for the revision petitioner-tenant has argued that learned Rent Controller as well as learned Appellate Authority failed to look into the concealment of material facts by the respondents-landlord, who have failed to disclose as to who are other co-owners of the demised premises and whether there is any litigation pending between them. The respondents have also raised false plea regarding the arrears of rent and their ownership and possession over the property at village Jamsher. He has relied on the observations of Hon'ble Apex Court in case of ***Kishore Samrite Vs. State of U.P. and others (2013) 2 SCC 398*** that where a party is not approaching the Court with clean hands, it should be non-suited on

this sole ground.

Mr. Kunwar Sood, Advocate, who has put in appearance on behalf of respondents, has argued that though the respondents have raised the plea of arrears of rent but the same was not pressed and no issue in this regard was framed by learned Rent Controller. Both the Courts below have taken note of the fact that possession of the property at village Jamsheer was duly disclosed by the respondents-landlord. The respondents are co-owners of the property in question and even if, there is any litigation inter-se co-owners, it has no impact on the petition filed before the Rent Controller. In this case, relationship of landlord and tenant between the parties was not denied, as such, respondents were not required to give details of all the co-owners, implead them as party and also to refer to the litigation, if any, pending between co-owners.

The argument of learned counsel for the petitioner that the respondents-landlord have raised the plea of arrears of rent, which was not correct, as such, ejectment petition filed by them should be outrightly rejected, has no merits. It appears that plea of arrears of rent was not pressed before the Rent Controller and no issue on this plea was framed.

The scope of inquiry before the Rent Controller was limited to the extent of plea raised by respondent-landlord seeking ejectment of petitioner-tenant from the demised premises. The relationship of landlord and tenant between the parties is not disputed. The respondents were not required to specify the name of each co-owner, make them party and to disclose as to whether any litigation inter-se co-owners is pending. The Rent Act requires the disclosure by the landlord as per provisions of Section

13(3)(a)(i) of East Punjab Urban Rent Restriction Act, 1949, which nowhere requires that non-disclosure of name of all the co-owners or litigation between them is a concealment.

Hon'ble Apex Court in case of *Kishore Samrite Vs. State of U.P. and others (supra)*, has dealt with issue of curbing abuse of the process of the Court and has observed that a litigant is bound to disclose full and complete facts. The observations of Hon'ble Apex Court that “ a party not approaching the Court with clean hands would be liable to be non-suited”, have been made in context of the specific facts of that case and has no bearing on the facts and circumstances of this case.

Learned Rent Controller and Appellate Authority have taken note of the fact that the respondents have disclosed the property in their possession at village Jamsheer, as such, there is no concealment on this score.

Learned Appellate Authority has also taken note of the argument of learned counsel for the petitioner-tenant about alleged concealment of facts in para 16 of the judgment and has committed no error while observing that there is no concealment of fact on the part of respondents-landlord.

No other point has been raised.

I find no merits in the submission put forth by learned counsel for the petitioner, consequently, this petition has no merits.

Dismissed.

February 13, 2019.
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***