

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3951-2019 (O&M)
DATE OF DECISION: 05.07.2019

VIJAY GARG

...PETITIONER..

VERSUS

DIVIYA VIBHOOTI AND ORS.

...RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

Ms. Ritu Punj, Advocate,
for the respondent-caveator.

RAMENDRA JAIN, J. (ORAL)

Through this revision, tenant-petitioner has laid challenge to judgment dated 01.05.2019 of the appellate court, whereby, reversing the order of the Rent Controller, Karnal dated 13.10.2015, all legal heirs including respondents No.2 to 6 of Kapoor Chand-initial tenant have been ordered to evict and hand over the vacant possession of the same within two months, while accepting the eviction petition of respondent No.1 under Section 15 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (for short, "Act").

Briefly, around 50-60 years ago, Kapoor Chand, ancestor of petitioner and respondents No.2 to 6 was inducted tenant on rented

ground floor of the premises situated at Chora Bazar, by mother of respondent No.1 namely Kailash Devi (now, deceased). Tenant-Kapoor Chand also expired. Therefore, upon his death, petitioner and respondents No.2 to 6, as his legal heirs, came in possession of demised premises. Respondent No.1 after retirement on 31.03.2012 as a Lecturer of History from Education Department of Haryana Government, wanted to impart free education to poor and needy persons, besides imparting free vocational training to old and destitute ladies. The other properties owned by her and all her brothers and sisters, being legal heirs of Parkash Chand and Kailash Devi, were not fit to fulfill her above personal necessity. The demised premises was the most suitable site for her above ambition. Consequently, she filed eviction petition under Section 15 of the Act against the petitioner and respondents No.2 to 6, impleading all her co-sharers, out of whom, she has three unmarried sisters.

The petitioner contested the eviction petition filed against him tooth and nail. The ld. Rent Controller, after holding trial, dismissed the eviction petition vide order dated 13.10.2015.

Being aggrieved, respondent No.1 land-lady approached the appellate court, who, while setting aside the aforesaid order of the Rent Controller dated 13.10.2015, ordered the eviction of the petitioner and respondents No.2 to 6 with direction to hand over the vacant possession of the demised premises to respondent No.1 within 60 days,

vide impugned judgment dated 01.05.2019.

Learned counsel contends that respondent No.1 and other legal heirs of Prem Parkash are owners of three properties including the demised premises. The other two properties are most suitable for respondent No.1 to carry out her alleged personal necessity. Even otherwise, first floor of the demised premises is lying vacant, where respondent No.1 can fulfill her aforesaid dream.

On the other hand, respondent No.1-caveator-landlady refuting the above submissions of learned counsel for the petitioner, submits that respondent No.1 did not conceal anything from the rent controller. She specifically pointed out that out of three building owned by them, in one building, she was living with her three unmarried sisters, whereas, second building was completely in dilapidated condition and third one was the demised premises, which was the most suitable for her to pass on her future life by doing some social work for the poor, needy and destitute women.

Having given thoughtful consideration to the rival submissions, this Court is not inclined to differ with the well reasoned findings of the appellate court, based on appreciation of evidence led by both the sides for the reasons to follow:-

By this time, it is well settled that bona fide requirement claimed by landlord in eviction petition does not fall within the purview of tenant to dictate as to which of the property would be suitable for a landlord to run his business. Landlord is the best judge of his own requirement. Considering this aspect of the case, the appellate

court has rightly ordered eviction of the petitioner and respondents No.2 to 6, directing them to vacate the demised premises within 60 days from the date of its judgment, while setting aside the order of the rent controller, who failed to appreciate the above analogy in right perspective.

This Court, while exercising its revisional jurisdiction, has very limited power, which can only be exercised in following three infirmities committed by the lower courts below:-

- (i) if the courts below have exceeded their jurisdiction;
- (ii) have exercised their jurisdiction illegally and;
- (iii) have not exercised their jurisdiction diligently.

Learned counsel for the petitioner has not been able to point out any such infirmity.

The revisional jurisdiction of this Court is not so wide as that of appellate court. This Court, while exercising its revisional jurisdiction, cannot appreciate or reappreciate the evidence.

Petitioner and respondents No.2 to 6 did not lead any contrary evidence to contradict the stand of respondent No.1-landlady that third building situated in Hola Mohalla was completely inhabitable being in dilapidated condition. The petitioner and respondents No.2 to 6 also did not lead any evidence to rebut the stand of respondent No.1 that in one of the buildings, she along with her three unmarried sisters were residing and the demised premises was not best located property, where she could fulfill her need of providing free education to poor, needy

people and destitute women.

As discussed above, it is always the choice of the landlord as to which of the property, he wants to choose for his profession or run a business. Therefore, finding no infirmity in the judgment of the first appellate court, the same is affirmed.

Dismissed.

The petitioner, respondents No.2 to 6 and their predecessors are in possession of the demised premises, since 1949 i.e. for around 7 decades. Learned counsel for respondent No.1-landlady has contended that prevalent rent of the demised premises as on date is around ₹1.00 lac per month, whereas, petitioner and respondents No.2 to 6 are paying meager rent of ₹2000/-. However, since there is no definite evidence qua prevalent rent of demised premises, therefore, this Court taking into account over all facts and circumstances that the demised premises is situated in the heart of the city of Karnal in thickly populated commercial area, petitioner and respondents No.2 to 6 are directed to pay rent @ ₹50,000/- per month from the date of their eviction by the appellate court vide judgment dated 01.05.2019.

In case, they fail to deposit the same, respondent No.1-landlady shall have right to recover the same from the petitioner and respondents No.2 to 6 by adopting legal recourse.

Eviction period granted to the petitioner and respondents No.2 to 6 by the appellate court has already expired. They cannot be granted further time.

However, in the interest of justice, they are directed to vacate the demised premises within two weeks from today.

Dismissed.

05.07.2019

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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No