

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

**CR No.3967 of 2019 (O&M)
Date of decision :10.07.2019**

Sukhbir Singh

...Petitioner

Vs.

Raj Rani

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.R.S.Budhwar, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

The petitioner has preferred the instant revision petition laying challenge to the judgment dated 17.5.2019 passed by Appellate Authority, Kurukshetra, who while accepting the rent appeal of the respondent-landlady and setting aside order of the Rent Controller dated 18.02.2016, ordered his eviction from the demised shop under his tenancy on the ground of personal necessity.

Briefly, respondent-landlady, namely, Raj Rani, aged around 73 years and a widow filed eviction petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (in short `the Act') to evict the appellant on the following two counts:

1. Petitioner had not paid arrears of rent. (However, the same were paid during the pendency of the eviction petition).
2. Demised shop was bonafidely required by the respondent for the business of her son Parveen Kumar.

The Rent Controller after holding trial dismissed the eviction petition vide order dated 18.2.2016. Consequently, respondent-landlady

approached first Appellate Authority, who vide the impugned judgment

dated 17.5.2019, setting aside aforesaid order of the Rent Controller, ordered eviction of the petitioner with a direction to him to hand over the vacant possession of the demised shop within 3 months from the date of judgment.

Learned counsel contends that admittedly respondent is having eight shops in Thanesar, Kurukshetra out of which two shops are under her possession and remaining six are under the tenancy of different tenants. Out of those two shops, in one shop, his son Naveen Kumar was running business, whereas, second shop was lying vacant. Therefore, the same can be used by the respondent-landlady or her son Parveen Kumar for his business purposes. The testimony of PW3 Dr.Ashwani Kaushal examined by the respondents has wrongly been relied upon by the Appellate Authority, because the same was not corroborated by any rent note, rent receipt or any authentic document to show relationship of tenant and landlord between him and Parveen Kumar.

Having given thoughtful consideration to the submissions made by the learned counsel for the petitioner-claimant, this Court is not inclined to differ with the findings of the Appellate Authority, ordering eviction of the petitioner as no evidence was led by the petitioner to controvert the statement of PW3 Dr.Ashwani Kaushal that Parveen son of the respondent had vacated his shop situated in Thanesar, Kuruskhetra, which was rented out by him on monthly rent of Rs.12,000/-.

Since, the statement of PW3 Dr.Ashwani Kaushal had gone un rebutted and unchallenged, therefore, the same was not required to be corroborated by any rent note or rent receipt and has rightly been relied

upon by the Appellate Authority.

The Apex Court and various High Courts in several authoritative announcements have already held that while interpreting “own use” the Court should adopt a practical and meaningful approach guided by the realities of life. It is bonafide necessity of the landlord which has to be looked into and not that of the tenant. It is for the landlord to decide as to which of the shop is required by him for his personal necessity as he is the best judge of his need and tenant cannot dictate his terms with regard to the suitability of accommodation in possession of the landlord. The land owner cannot be deprived of to enjoy his right to the property, merely on the ground that tenant will suffer more hardship than the landlord.” In other words, tenant cannot dictate terms to his landlord about his bonafide and genuineness and to adjust him according to his wishes. Reference can be made to *Ajit Singh and another Versus Jit Ram and another, 2008(4) RCR(Civil) 390; Ravi Sethi Vs. Smt.Kamla Madan, 2013(2) RCR (Rent) 327 and Ranjodh Singh Versus Shama Tank, 2017(4) Law Herald 3135* which have already been referred by the Appellate Authority in the impugned judgment.

It has come in evidence that out of the two shops under the possession of the respondent-landlady in one of the shops her son Naveen Kumar was running his business, whereas second shop was being used by him as godown. No other shop is in possession of the respondent-landlady which fact has been admitted by the petitioner, while pleading that out of eight shops owned by the respondent, six are under tenancy of different tenants.

Therefore, the petitioner cannot be permitted to dictate his

choices to the respondent-landlady as to which of the shops would be

suitable to her for the business of her son. Since vacation of the demised shop has been claimed by the respondent-landlady for bonafide necessity to run business by her son, against which no contrary evidence has come on record from the side of the petitioner, therefore, finding no merit in the instant petition, the same is dismissed.

The petitioner-tenant shall be bound by the observation of the Appellate Court directing him to vacate the demised premises within three months from the date of its order.

10.7.2019
Meenu

(RAMENDRA JAIN)
JUDGE

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