

CR-5377 of 2019 (O&M)

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

CR No.5377 of 2019 (O&M)
Date of decision: 03.09.2019

Mohinder Sachdeva

.....Petitioner

versus

Sahil Bhatia

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Arun Jain, Sr. Advocate,
with Mr. Varun Parkash, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Tenant through this revision has laid challenge to judgment dated 31.07.2019 of the Appellate Authority, affirming order dated 17.08.2016 of the Rent Controller, Chandigarh, ordering his eviction from the demised house, while accepting eviction petition of the respondent-landlord under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short the 'Act').

Briefly, vide lease deed dated 06.06.2009 petitioner was inducted as a tenant for three years with an extension clause of one year. It was agreed between the parties that in case, petitioner would not vacate the tenanted premises after expiry of lease period, a fresh rent agreement shall not be executed and he would carry on paying double the rent with annual increase of 5% w.e.f. 01.07.2013. After expiry of lease period, respondent-landlord filed petition under Section 13 of the Act for eviction of the petitioner mainly on three grounds: -

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accommodation of his old aged mother living in Chandigarh itself, as she was not able to climb stairs for going to first floor;

(ii) Family of the respondent wanted to shift to Chandigarh as it was the most organised city in the country being more eco-friendly having contingent environment; and

(iii) Younger brother of the respondent living in USA was also willing to settle down in Chandigarh to join his business. His sister also visits the family of the respondent on occasions of festivals and, thus, the tenanted premises was liable to be vacated for bona fide necessity of the respondent.

Petitioner contested the eviction petition against him tooth and nail. The Rent Controller after holding trial accepting the petition of the respondent, ordered eviction of the petitioner, directing him to vacate the demised premises within three months vide order dated 17.08.2016.

Being aggrieved, petitioner approached the Appellate Authority, but remained unsuccessful as his appeal too was dismissed vide judgment dated 31.07.2019.

Learned counsel for the petitioner *inter alia* contends that remarriage of the mother of the respondent is an admitted fact with one Madhukar Malhotra and her living with him in his house No.2228, Sector 21-C, Chandigarh. After remarriage, relations of respondent and his mother severed and, thus, bona fide requirement alleged by the respondent-landlord to keep his mother in the tenanted premises is apparently false, his mother being not dependent upon him. During the pendency of appeal, respondent-landlord let out first floor of the demised house and to prove the said fact,

the petitioner had moved an application for leading additional evidence, but

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the same was illegally rejected. Rent Controller and the Appellate Authority failed to appreciate that respondent did not lead any cogent and convincing evidence to show his alleged bona fide necessity qua demised ground floor under the tenancy of the petitioner. In support of his contentions, learned counsel relied upon ***Kasturi Lal Sharma v. Kartar Singh – (Landlord)***, 1984(1) R.C.R.(Rent) 211 (P&H), ***Surinder Pal Singh v. The Geologist Director of Industries and others***, 1985(2) R.C.R.(Rent) 210 (P&H) and ***Joginder Pal v. Naval Kishore Behal***, 2002(1) R.C.R.(Rent) 582 (S.C.).

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds the instant revision completely devoid of any merit for the reasons to follow.

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any such infirmities in the judgment of the Appellate Authority and order of the Rent Controller.

Remarriage of old aged mother of the respondent with Madhukar Malhotra after the death of his father does not debar him to keep her with him in the demised premises situated on ground floor nor debars her to live with her son. As of now her age must be around 63 years inasmuch as while appearing as PW3 in the year 2015, she disclosed her age as 59 years. Judicial notice of the fact can be taken that at such an advanced

age it may be difficult for a person to climb stairs easily without any hassle.

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In such a age, an old person always intends to live on the ground floor to his/her comfort. Thus, in case, respondent needs the demised ground floor for bona fide requirement to keep his mother with him, it cannot be termed as illegal. Mother of the respondent as PW3 categorically denied the suggestion put to her by learned counsel for the petitioner that her examination-in-chief by way of her affidavit Ex.PW3/A was false, wherein she had categorically testified that she wants to settle down on the ground floor of H. No.1331, Sector 33-C, Chandigarh (demised premises), as it would be more convenient and suitable to her.

By now, it is well-settled proposition of law that a tenant cannot be permitted to dictate his terms to the landlord. Rent Controller should not proceed on the assumption that requirement of the landlord was not bona fide. In the instant case, respondent has been well able to prove his bona fide requirement.

That apart, respondent-landlord has also sought eviction of the petitioner-tenant on the ground that his sister also visits him on the occasions of festivals and his younger brother, presently living in USA, also intends to come back to India and live in Chandigarh to join his business. Above plea taken by the respondent cannot be dis-believed simply, because, it does not suit to the petitioner. There is nothing on the record to rebut the above stand of the respondent. Under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the Hindu Adoptions and Maintenance Act, 1956 and even under the Code of Criminal Procedure mother can be termed as dependent upon his son.

No question of law much less substantial has been raised in this

revision. Therefore, same is held not maintainable.

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Facts and circumstances in the case of ***Kasturi Lal Sharma*** (***supra***) are altogether different from the facts of the present case as in that case demised shop was sought to be vacated to settle his son after marriage, in ***Surinder Pal Singh*** (***supra***) eviction was sought for father and sister, who was not pulling well with her husband. In that case father and sister were not economically dependent on the landlord, whereas there is no such circumstance. Facts and circumstances of the judgment in ***Joginder Pal*** (***supra***) relied upon by learned counsel for the petitioner are also completely distinguishable from the facts of the present case. Therefore, no benefit of the same can be given to the petitioner.

Dismissed.

(Ramendra Jain)
Judge

September 03, 2019
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No