

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.1681 of 2016 (O&M)

Date of Decision: June 9th, 2020

Manohar Lal (since deceased) through his L.R. and another
.....Petitioners

Versus

Inderpal Mittu
.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr.Vikas Bahl, Senior Advocate with
Mr. Nitish Garg, Advocate for the petitioners.

Mr. Baldev Raj Mahajan, Senior Advocate with
Ms. Bahaar Ghuman, Advocate for the respondent.

MAHABIR SINGH SINDHU, J.

Present revision petition is filed under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949 (for short 'Act of 1949') by the petitioners-tenants against the impugned judgment dated 11.01.2016 passed by learned Appellate Authority, Amritsar, whereby, their appeal was dismissed and eviction order dated 23.01.2013 of learned Rent Controller, Amritsar had been affirmed.

2. Brief facts of the case are that respondent-landlord filed Rent Petition No.32 dated 28.11.2005 under Section 13 of the Act of 1949 for eviction of the petitioners from a shop on ground floor of Property No.960 (present No.265/266/IV), Bazar Churian Wala, Katra Mohar Singh, Amritsar (hereinafter referred as 'demised premises').

It is averred that initially, petitioner No.1 along with his brother Deep Kumar (since deceased) were inducted as tenants by the

earlier owner/landlord, namely Baldev Raj w.e.f. 15.07.1981 on the basis of rent note dated 22.07.1981 at a monthly rent @ of Rs.40/-. After the death of abovesaid Deep Kumar, petitioner No.1 became the sole tenant, but he inducted petitioner No.2 as a sub-tenant and transferred possession of the demised premises to him. Respondent purchased the building, including the demised premises from said Baldev Raj, on the basis of a Sale Deed dated 05/08.05.2000 registered on 10.05.2000, consequently, by operation of law, he became landlord; thus, relationship of landlord and tenant with petitioner No.1 has been continuing since then. Grounds of ejectment, in brief, are as under:-

- a) **The building where the demised premises is situated has become unfit and unsafe for human habitation:-** It is averred that the entire building, including the demised premises is an old structure, built up of *Nanakshahi* bricks and portions of the same are standing with the support of props underneath the decayed roofs. The walls have developed massive cracks, resulting into disintegration which requires re-construction from foundation level.

Demised premises on ground floor of the building is under the tenancy of petitioner No.1; whereas, Agya Ram (father of respondent) was earlier a tenant of front room at first floor, but now the same is in occupation of the respondent for the purposes of business, however, taking into consideration its precarious condition, he discontinued the business from this room and shifted to shop No.5, 7 & 8 of property No.1104 to 1108, Bazar Kathian, Amritsar. Intimation, in this regard, was sent to concerned Departments including Income Tax, Insurance Company, BSNL, PSEB as well as MC for House Tax; but rented premises is stated to be unsuitable and insufficient for the respondent to carry on the business.

- b) **Bona fide requirement:-** It is averred that respondent requires the demised premises for his own *bonafide* use & occupation as well as of his two grown up sons, namely, Harsh Mittu and Gautam Mittu, aged 27 & 24 years respectively, as they have no place for business of their own; rather used to move around and get the job work done from other goldsmiths. Respondent wants to re-build the property for setting up a multi-storeyed showroom for manufacturing, trading of ornaments, jewellery and silver ware, which is their hereditary business (family trade). Also averred that respondent as well as his sons do not own or occupy any other non-residential premises in the urban area of Amritsar; nor they have vacated any such premises without sufficient cause after the commencement of Act of 1949 and the rented shops are neither suitable; nor sufficient for the respondent.
- c) **Sub-letting:-** It is averred that petitioner No.1 had sub-let the demised premises to petitioner No.2 at his own. Earlier petitioner No.1 used to carry on the business of *dhoop-Agarbattis* from demised premises, but the same has been discontinued and his son (petitioner No.2) is now carrying on the business of *chura*-bangles being in exclusive possession without the consent of respondent.

Eviction petition was opposed by the petitioners while *inter-alia* submitting that rent note dated 22.07.1981 executed with earlier owner/landlord, namely Baldev Raj is not admissible in evidence.

Averments of respondent that petitioner No.2 is a sub-tenant as well as in exclusive possession of demised premises were denied, and submitted that both the petitioners are running a joint business.

Initial induction of the petitioner No.1 as a tenant at the monthly rent Rs.40/- by Baldev Raj, is admitted, however, the sale-deed dated 05/08.05.2000 registered on 10.05.2000 in favour of respondent

by Baldev Raj is denied due to lack of notice. Further submitted that building is standing like a rock and there is no danger that it can fall at any time. Also submitted that three walls of the demised premises are common with other adjoining properties where regular business is being carried on. Petitioners have denied the fact of shifting of business by respondent in shop No.5, 7 & 8 of property No.1104 to 1108, Bazar Kathian, Amritsar on account of precarious condition of room on first floor.

Also denied that respondent is in *bona fide* need of demised premises for his own use and occupation as well as of his sons or for repair or demolition or renovation of the building as none of the above sons are so far married. Further submitted that respondent is running his business in the name of Agya Ram jewelers at property No.1107-1108, Bazar Kathian, Amritsar, thus, having sufficient accommodation. Also submitted that the respondent has set up his store in the same very building where demised premises is situated and he remains on business tour at Chandigarh as well as on other stations for 15 days in a month and in his absence, both sons run the business at new premises, thus, respondent is having sufficient accommodation in his possession for himself as well as for both the sons.

Ground of sub-letting of demised premises in favour of petitioner No.2 was denied while submitting that he is the son of petitioner No.1 and both of them are carrying on joint business, not only for selling *dhoop-agarbatties*, but also *chura*-bangles for the last so many years.

Respondent filed replication and reiterated the contents of the eviction petition and denied the averments of the petitioners that rent note is not admissible in evidence. Also reiterated the execution of sale-deed dated 05/08.05.2000 registered on 10.05.2000. Further reiterated that respondent has shifted his business to the new premises due to reasons given in eviction petition and it is not owned by him; rather the same is a rented place. *Bona fide* requirement for demised premises as well as dangerous condition of the building are reiterated. Also submitted that both sons of respondent are married and working with him in the jewellery business.

3. On the basis of pleading of the parties, learned Rent Controller, Amritsar framed following issues:-

- “1. Whether there exists relationship of landlord and tenant between the parties? OPP*
- 2. Whether the premises under the tenancy has become unfit and unsafe for human habitation? OPP*
- 3. Whether the petitioner requires the premises bonafidely for the use and occupation of his sons? OPP*
- 4. Whether the respondent No.1 has sublet the demised premises to respondent No.2? OPP*
- 5. Relief.”*

4. In order to prove his case, respondent himself appeared as AW-20 and examined other witnesses, which are as under:-

PW-1-Manjit Kaur, Clerk, PSEB,

PW-2-Kamal Kumar, Clerk, BNSL,

PW-3-Raman Kumar Gupta, Stenographer, United India Insurance Company Limited,

PW-4-Brahm Parkash, Incharge, UTI Tech Service Ltd.,

PW-5-Joginder Kanta, Junior Assistant, House Tax Department,

AW-6-Hira Lal Anand, Deed-Writer,

AW-7-Harbans Kaur, Clerk, Sub-Registrar, Amritsar,

AW-8-Paramjit Singh, husband of Pushpa Rani,

AW-9-Charanjit Singh Chawla, Deed-Writer,

AW-10-Shiv Kumar, Attesting witness,

AW-11-Hari Singh,

AW-12-Jugal Sharma,

AW-13-Chaman Lal son of Om Parkash,

AW-14-Kamal Kanta, Clerk of office of Sub-Registrar.

AW-15-Anil Kumar, Deed-Writer,

AW-16-Ashok Kumar, Goldsmith,

AW-17-Vijay Kumar, Photographer,

AW-18-M.R. Anand, Civil Engineer,

AW-19-Harsh Mittu,

AW-20-Inderpal Mittu-respondent.

5. On the other hand, petitioners examined following witnesses:-

RW-1-Arvinder Singh, Civil Engineer, District Courts, Amritsar,

RW-2-Jasbir Singh, Senior Telecom Assistant,

RW-3-Rishi Jain son of Manohar Lal Jain,

RW-4-Kuljit Singh,

RW-5-Sanjay Kumar.

6. Learned Rent Controller, after taking into consideration the material available on record and hearing the parties, allowed the eviction petition vide order dated 23.01.2013.

While deciding issue No.2, learned Rent Controller found that the building where demised premises is situated has become unfit and

unsafe for human habitation, thus, decided this issue in favour of the respondent.

Although, learned Rent Controller while considering issue No.3, noticed that respondent is having property at Khadur Sahib, but the same was found to be neither suitable for his business; nor situated within the revenue area of District Amritsar; rather falling in District Tarn Taran. Consequently, learned Rent Controller came to the conclusion that need of the respondent regarding the demised premises is *bona fide*.

It transpires that during the course of hearing, issue No.4 regarding sub-letting was given up by respondent, therefore, the same was decided as not pressed.

Ultimately, in view of the findings recorded on issue Nos.2 & 3, learned Rent Controller, allowed the eviction petition on the grounds:- (i) that the building where the demised premises is situated has become unfit and unsafe for human habitation ; (ii) *bona fide* requirement of the respondent regarding the demised premises, is duly proved.

7. Aggrieved against the eviction order, petitioners preferred an appeal, but the same was dismissed by learned Appellate Authority and concurred with the conclusion recorded by the learned Rent Controller.

While dealing with issue No.2, learned Appellate Authority observed that efforts were made by the petitioners-tenants as well as their expert (RW-1) to get the photographs of only that portion of premises which is freshly painted in order to conceal the true position of the building. It was also observed that photographs of entire roof were not taken at the instance of petitioners in order to make a deliberate

attempt to conceal the true position of the building and the photographs of only that portion of wall have been taken upon which wooden racks have been affixed. Learned Appellate Authority also observed that just to conceal the true condition of the building, the photographs of that portion of room in possession of respondent-Inderpal have been taken which is of better condition and the photographs of entire room showing its damaged condition, including wooden beams, batons, walls etc. were not taken. Learned Appellate Authority, finally, observed that every effort has been made on behalf of the petitioners to conceal the true picture of the building, thus, report submitted on their behalf by the building expert (RW-1) was found to be incomplete.

While considering issue No.3, learned Appellate Authority observed that respondent requires the building, including the demised premises for his own use and occupation as well as of his sons to settle them in a jewellery business, thus, need was found to be bonafide and genuine.

8. Hence, the present revision.

9. It is contended by learned Senior counsel on behalf of the petitioners that both the Courts have gone wrong while not taking into consideration the relevant material available on record , thus, the findings recorded on issue Nos. 2 and 3 being perverse are liable to be set aside. Further contended that respondent has concealed the material facts regarding other properties owned and possessed by him, including, one big room in the same very building, thus, the eviction petition was liable to be rejected outrightly. Also submitted that both the sons of respondent are doing the business of manufacturing gold

ornaments jointly with their father (respondent) and they are in possession of three shops at Bazar Kathian and running a joint business, thus, eviction of the petitioners on the ground of *bonafide* requirement is not at all warranted.

Learned Senior counsel further contended that findings of both the Courts on issue No.2 to the effect that demised premises is unfit and unsafe for human habitation are absolutely perverse and liable to be reversed in view of the testimony of building expert AW-18, M.R. Anand, as well as reports submitted by him; AW17 photographer along with photographs; and deposition of expert RW-1-Arvinder Singh, along with his reports and photographs. Lastly submitted that in view of the reports of both the building experts as well as various photographs available on record, it is nowhere proved that any portion of the building, including the demised premises, is in a dilapidated condition or likely to fall in near future, thus, there is a complete misreading of evidence by both the Courts while recording the conclusion that building has become unfit and unsafe for human habitation.

10. On the other hand, learned Senior counsel on behalf of the respondent submitted that there is no concealment of fact about any other property, rather it was duly disclosed in para 6 (a) of the eviction petition that on first floor of the building, one room which was earlier under the tenancy of Agya Ram (father of respondent), is now in his (respondent's) occupation for business purposes, but taking into consideration its dangerous condition, he has discontinued the business from there and shifted to shop Nos.5, 7 & 8, forming part of property No.1104-1108, Bazar Kathian, Amritsar on rental basis and an

intimation, in this regard, was duly given to various Government departments, including, Income Tax, Insurance Company, BSNL, PSEB and House Tax Department of Municipal Corporation.

Further submitted that there is sufficient material on record to prove that respondent requires the demised premises for his *bona fide* requirement as well as of his two grown up sons to run the business of jewellery after constructing a multi-storeyed showroom for manufacturing, trading in ornaments, jewellery and silver-ware, which is their family trade. Also submitted that there is no evidence on record to prove that respondent is having any other alternative or suitable premises within the urban area of Amritsar and the rented premises in Bazar Kathian is on the first floor, thus not serving their purpose of jewellery business.

Learned Senior counsel has further argued that there is sufficient material on record to prove that building where the demised premises is situated has become unfit and unsafe for human habitation and the Courts below have, thoroughly examined the reports of the building experts produced by both sides, along with photographs on record, thus, there is no question of any perversity.

Lastly submitted that impugned orders passed by Courts below are perfectly legal and do not require any interference by this Court while exercising revisional jurisdiction under Section 15(5) of the Act of 1949.

11. Heard both sides and perused the record.
12. Scope of interference with the findings of facts recorded by learned Appellate Authority while entertaining revision petition in such

like matters, is well settled by the Hon'ble Supreme Court in various cases and reference in this regard, can be made to the Constitution Bench judgment, reported as '**Hindustan Petroleum Corporation Ltd. versus Dilbahar Singh**', 2014 (9) SCC 78, and para-45 thereof being relevant, reads as under:-

"We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions

of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

Still further, Hon'ble Supreme Court in a recent case titled as **'M/s Kaithal Provision Store versus Sanjay Bansal & Anr.'**, decided on **26.07.2018**, reminded the revisional Courts in the following manner:-

“This Court has repeatedly held that in exercise of the revisional jurisdiction, unless a finding is perverse, there can be no interference in revision. See - for the revisional jurisdiction of the East Punjab Urban Rent Restriction Act, 1949, which is the Act applicable in the present case - Ajit Singh and Another vs. Jit Ram and Another, (2008) 9 SCC 699 (para 25).”

13. Respondent has successfully proved that the building-property No.960/IV is a two and half storeyed (2½) upon total area measuring 56 sq. yards, including the demised premises and that was purchased by him vide registered sale deed dated 10.05.2000. As per the case of the respondent, the building, including demised premises is an extremely old structure, built up of *Nanakshahi* bricks and portions of the same are standing with the support of props underneath the decayed roofs and its walls have developed massive cracks resulting into disintegration and the same requires reconstruction from foundation level.

It is also averred that on first floor, the front room which was earlier under the tenancy of his father (respondent), namely Agya Ram, is now occupied by respondent himself for business purposes, but taking into consideration its dangerous conditions, he has discontinued the

business from this place and shifted to shop Nos.5, 7 & 8 forming part of property No.1104 to 1108, Bazar Kathian, Amritsar. The change of new place of business was duly notified by the respondent to the concerned Government authorities, including Income Tax Department, Insurance Company, BSNL, Electricity Board (PSEB), House Tax Department of the Municipal Corporation, Amritsar and all these facts have been duly proved in view of the testimonies of PW-1, PW-2, PW-3, PW-4 and PW-5. The respondent needs the demised premises for his own use and occupation as well as of his two grown-up sons, namely Harsh Mittu and Gautam Mittu, who were in the age group of 27 and 24 respectively, in the year 2005, when the eviction petition was filed, but now they are in age group of 40 years. It is duly established that both the sons have no place of their own for business, except the rented place on first floor situated at Bazar Kathian with their father (respondent) and they used to move around for getting job work done from other goldsmiths. Considering the *bonafide* requirement, respondent wants to rebuild the property for setting up a multi-storey showroom for manufacturing, trading of ornaments, jewellery and silver-ware which is their hereditary trade. Specific declaration has been made in the eviction petition that respondent as well as his both sons do not own or occupy any other non-residential building in the urban area of Amritsar; nor they have vacated any such premises without sufficient cause after commencement of Act of 1949 and the rented shops on first floor in Bazar Kathian are not suitable for their business.

Learned Senior counsel for the petitioners has given much stress on the point that respondent has concealed the factum of other

properties owned and possessed by him as he is having a big showroom bearing property No.1104-1108, Bazar Kathian, Amritsar, thus, *bona fide* requirement is not proved.

Both the Courts have duly considered this aspect of the matter in detail and found that, at present, respondent is running the jewellery business along with his sons from property No.1104-1108, Bazar Kathian, which is a rented premises owned by one Pushpa wife of Paramjit Singh and rent-notes dated 12.04.2005 & 26.09.2005 have been duly proved in this regard by AW-8 –Paramjit Singh, AW-9-Charanjit Singh Chawla, deed-writer AW-10-Shiv Kumar, attesting witness and AW-11-Hari Singh. Although, it is argued by learned Senior counsel while referring to the testimony of RW-5-Sanjay Kumar that respondent is running jewellery shop as well as Western Union Money Transfer business, at Khadur Sahib, but undisputedly Khadur Sahib is falling in another District, i.e. Tarn Taran, therefore, this arguments is of no help to the petitioners in any manner. Both the Courts have duly considered about the property situated at Khadur Sahib, but came to the conclusion that it will not serve the purpose of respondent for running the business as he wants to construct a showroom in place of the existing building at Amritsar and the demised premises is part of the building. Since the property owned by respondent at Khadur Sahib is not falling within the urban area of District Amritsar, therefore, the same will not tantamount to any disadvantage for the claim of *bona fide* requirement regarding the demised premises. One son of the respondent (Harsh Mittu) appeared as AW-19; whereas respondent himself appeared as AW-20 and both of them have specifically deposed that they need the

demised premises for running the jewellery business after reconstruction of the entire building and both these witnesses were cross-examined at length by the petitioners, but nothing adverse has come out from their testimonies. Even, two neighbours, i.e. AW-12-Jugal Sharma and AW-16-Ashok Kumar also duly supported the case of the respondent regarding their *bona fide* requirement. AW-19 & AW-20 specifically deposed that neither they are occupying any suitable non-residential building within the urban area of Amritsar; nor have vacated such premises without any sufficient cause after coming into force the Act of 1949. Although, RW-5-Sanjiv Kumar tried to cast a dent in the case of respondent regarding *bona fide* requirement while deposing that respondent remains on tour to different stations outside Amritsar for week or 10 days in a month, but that cannot be the basis for rejection of the claim of respondent regarding his *bona fide* requirement for the demised premises. So far as the urban area of Amritsar is concerned, the petitioners have failed to show any material to this Court that respondent is in possession of any other non-residential property except property No.1104-1108, Bazar Kathian, but as discussed above, that is not serving their purpose. It is duly proved that total area of the building owned by respondent is 56 sq. yards which was purchased by him vide registered sale deed dated 10.05.2000 (Ex.A5) and he along with both the sons are running their jewellery business from rented shops situated on first floor of property at Bazar Kathian owned by one Pushpa wife of Paramjit Singh, but that is not serving their purpose, thus, not a suitable place for running the jewellery business. The respondent purchased the building in the year 2000 for doing jewellery business after constructing a

showroom for making progress in the life and certainly this Court will not create any hindrance for his growth and upliftment in the business. There is sufficient material on record to indicate that both sons of the respondent are of above 40 years of age; jewellery business is their hereditary trade, thus, there is nothing wrong for joining hands with their father while making efforts to grow in the trade.

Also noteworthy that this Court, while deciding CR No.7737 of 2019 along with bunch of cases on 28.02.2020, dealing with somewhat similar issue of *bonafide* requirement, observed as under:-

“Moreover, as per the case of the respondents/landlords, Anil Kumar was sought to be associated for running the jewellery business on the basis of his expertise and thus, by no stretch of imagination, it could be construed that eviction petition was filed for the benefit of said Anil Kumar only or his non cross-examination would be fatal for the bona fide requirement of the respondents/landlords in any manner.

It has also been duly established that all the respondents belong to different families, but they are from a common ancestor, namely, Shri Harbans Lal s/o Shri Nathu Mal and moreover, relationship of the respondents/landlords is duly admitted by the petitioner(s)/tenant(s) in para 2 of their reply also.

Since all the respondents/landlords are related to each other being from common ancestor and running four jewellery shops since long and which are as under:-

(i) M/s Golden Jewellers at Garha Road by Anil Kumar, (husband of respondent No.4-Monika), on rent, which is 20 meters away from the demised premises. Ejectment orders have been passed and attained finality up to Hon'ble Supreme Court. Anil Kumar is

having long experience in the field of jewellery business and would join the respondents/landlords in their business;

(ii) M/s Paras Bhardwaj Jewellers, situated at a distance of 100 feet from the demised premises, measuring 65 sq. ft., owned by respondent No.4, thus, very small in size;

(iii) M/s Prince Jewellers, run by Mangat Ram (husband of respondent No.1), on rent, situated at Rama Mandi, Jalandhar;

(iv) Babbar Jewellers at Bansa Wala Bazar, Jalandhar, on rent by Sita Ram (husband of respondent No.3).

All the families of respondents/landlords are having vast experience in jewellery business and thus, requirement of the demised premises for running their business at a common platform is absolutely justified being bona fide requirement and there is nothing wrong to start a retail outlet showroom at one common platform by joining hands with each other.”

In view of the discussion made hereinabove, this Court is in fully agreement with the conclusion recorded by both the Courts below on issue No. 3 regarding the *bona fide* need of the respondent for the demised premises on account of his own use and occupation as well as of his sons and there is no illegality or perversity worth interference with the findings recorded on this issue.

14. Although, the above conclusion was sufficient to decline the prayer of the petitioners, but since, the arguments were raised on issue No. 2, i.e. ‘*demised premises has become unfit and unsafe for human habitation*’, therefore, this Court thought it appropriate to decide this issue as well.

It is the case of the respondent that building including the demises premises is an extremely old structure built up of *nanakshahi* bricks and some portions of the same are standing with support of props underneath the decayed roofs. It is also claimed that walls have developed massive cracks resulting into disintegration and requires reconstruction from foundation level.

In order to prove the condition of the building, respondent examined AW 18-M.R.Anand, Civil Engineer as well as AW17-Vijay Kumar, photographer and both the witnesses have produced detailed reports as well as various photographs respectively.

On the other hand, petitioners also examined their own building expert i.e. RW1 Arvinder Singh, Civil Engineer, District Courts, Amritsar, who submitted his report, site plan and photographs.

Reports of both the building experts AW18 and RW1 along with photographs were duly considered by the Courts below. Learned Rent Controller after taking into consideration the reports of AW18 as well as photographs in paras 33 and 37 of the eviction order recorded that there were cracks in the building and joints have been dislocated which are naked and clearly established that building of which the demised premises is the part and parcel has become unfit and unsafe for human habitation.

Learned Appellate Authority has rather gone deeper on this issue and considered the reports of both the building experts minutely along with photographs which are on record and in para 30 of the impugned judgment observed that reports of AW18-M.R.Anand, building expert are in consonance with the photographs taken by AW17-Vijay

Kumar, which were found to be inspiring confidence and revealed true condition of the building. Learned Appellate Authority after examination of testimony of AW18 along with his reports and photographs observed that condition of the building is utterly bad as wooden planks used in the roof were damaged and the material of the roof was coming out and the planks have left their space and become hollow. In all fairness, the testimony of RW1 as well as his report and photographs were also duly considered by learned Appellate Authority and conclusion recorded in para 31, reads as under:-

“Further the photographs which the respondent has proved on record as Ex.R1/3 to Ex.R1/44, are proved in the statement of RW1 Arvinder Singh. The perusal of these photographs reveal that an effort was made by the tenant and the building expert examined by him to get the photographs of only that portion, which is painted freshly in order to conceal the true position of the building. The photographs of that portion of roof are taken, on which there is false ceiling. The photographs of entire roof are not taken and it shows that a deliberate attempt has been made to conceal the true position of the building. The photographs of that portion of wall have been taken, on which the wooden racks have been affixed and which are freshly painted and whitewashed. Further the photographs which are produced on behalf of the tenant reveal that in order to conceal the position of the building, tenant Manohar Lal had got freshly painted the portion in his possession at the time of inspection by the building expert of the appellant/ tenant as the photographs so depicted and the portion which is in possession of another tenant Shiv Mangal, that is also freshly painted and whitewashed in order to get concealed the position of the building. Even the photographs which are

taken of the room in possession of Inderpal petitioner, only photographs of that portion are taken, the condition of which appears to be somewhat good and the photographs of the entire room showing the damaged condition of wooden beams, batons, walls etc. are not taken. So every possible effort is made on the part of the tenant to get concealed the true position of the building and in these circumstances, the report made by building expert examined on behalf of the tenant does not inspire confidence, because his report can be said to be incomplete one as he has not shown the condition of entire building deliberately. He has made report of that portion appearing to be somewhat good according to the convenience of tenant, on whose behalf he is appearing.”

In the opinion of this Court, the above findings of facts recorded by learned Appellate Authority are well founded, duly supported with the sufficient material available on record and the same cannot be said to be perverse or illegal in any manner.

Although learned Senior Counsel for the petitioners tried to argue on the basis of some photographs which are on record to the effect that above conclusion recorded by learned Appellate Authority is not correct, but this Court in view of the law laid down by Hon'ble Supreme Court in **Hindustan Petroleum Corporation Ltd. case (supra)** will not venture for a roving inquiry and substitute by way of different conclusion after re-appreciation or re-examination of evidence in the form of few photographs.

15. Undoubtedly, the view taken by both the Courts below is not only the possible view, rather perfectly legal and justified. Moreover, no procedural illegality or material irregularity has been pointed out on

behalf of the petitioners against the impugned orders, thus the same deserve to be concurred.

16. In view of the discussion made hereinabove, this Court is fully convinced that findings recorded by both the Courts below on Issue Nos.2 and 3 are based on sufficient material and there is no perversity, illegality or impropriety with the impugned orders, thus, no interference is required while exercising the revisional jurisdiction under Section 15 (5) of the Act of 1949.

No other point was raised or argued by either side.

Consequently, this Court is left with no option except to dismiss the revision petition.

Ordered accordingly.

Petitioners / tenants shall handover the vacant possession of the demised premises to the respondent on or before 31.10.2020.

(MAHABIR SINGH SINDHU)
JUDGE

June 9th, 2020
sanjay

Whether speaking/reasoned?: Yes/No

Whether reportable?: Yes/No