

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

CR No.3400 of 2015 (O&M)

Date of Decision: January 14, 2020

Kanwaljit Singh Walia Petitioner

Versus

Gurcharan Kaur Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Nakul Sharma, Advocate for the Petitioner.

Mr. Sunil Kumar Garg, Advocate for the Respondent.

SUDIP AHLUWALIA, J.

This Revisional Application is directed against the Judgment dated 19.12.2014 passed by the Ld. Appellate Authority, Ferozepur in Rent Appeal No.156 of 2013 affirming the Order of the Rent Controller, vide which the Eviction Petition filed by the Respondent/Landlady under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 had been allowed.

2. In their concurrent findings, both the Ld. Courts below have held the Respondent/Landlady to be entitled to have the Petitioner/Tenant evicted from the demised Shop on the ground of her personal necessity inasmuch as she wants her own son to start his business in the same. It was her case originally that due to his ill-health, her husband was unable to do any gainful work, and so her son was required to start his own business in the demised Shop as he was otherwise working in a Karyana Shop elsewhere. It has further transpired that the said husband of the Respondent/Landlady namely Dilbagh Singh died during pendency of the original Eviction

Application. The Petitioner/Tenant had denied the Respondent's Claim in this regard that personal bonafide requirement of the Landlady was false, since her son was running his own Karyana Shop and was not working anywhere as an employee, and that in any event, the Eviction Application was liable to be dismissed in view of the fact that the Landlady had omitted to mention in the same that either she was not in occupation of any other such premises/Shop in Municipal Area, had got the same vacated before filing of the Application.

3. Ld. Counsel for Petitioner alongwith his Written Synopsis has relied upon the following decisions in support of the contention that the Eviction Petition of the Respondent/Landlady ought to be dismissed for wilful suppression of the fact that she was also in occupation of another Shop when filing the Eviction Petition -

- i) Randhir Singh Rohilla Vs. Rajbir
2015(33) R.C.R. (Civil) 112
- ii) Vinod Kumar Vs. Bhushan Kumar Jain & Ors.
2019(1) R.C.R. (Rent) 325
- iii) Shankar Lal Vs. Madan Lal & others
2011(1) R.C.R. (Rent) 139
- iv) Sandeep Kumar Vs. Nihal Chand
2014(1) R.C.R. (Rent) 30
- v) Banke Ram Vs. Shrimati Sarasvati Devi
1977(1) R.C.R. (Rent) 595

4. It is however, well settled that the mere omission to make a pleading in this regard is in itself no ground to dismiss the Eviction Application altogether, if otherwise, the requirement is fulfilled in the evidence to be led from the Landlord's side. In the present case, it was asserted on behalf of Petitioner that the Landlady holds another Shop adjacent to the demised Shop, and to support this contention, he has

placed on record a Site Plan of the demised Shop (Annexure P-3) to show that another Shop is situated on the North-Western side of his own demised Shop in the concerned Building. In addition, the Petitioner/Tenant has also placed on record a copy of the Sale Deed of House No.1 (P) Street No.11, Ferozepur Cantt. (Annexure P-5) to show that the said House purchased by the Landlady from Erstwhile Owner Satya Devi on 6.2.1991 has two Shops. But it may be noted that case of the Landlady from the very beginning that she had purchased the demised Shop in the year 1991. In her cross-examination as PW-1, the Respondent admitted that she had Shop adjoining to the demised Shop. But there is nothing to suggest that the said adjacent Shop happens to be in her own occupation. On the contrary, it was suggested to her that the rent of the said Shop was Rs.200/- per month, thereby implying that it was actually let out to some body else and was not in her own occupation. Similarly, in the face of denial by the Landlady's son namely Ravinder Singh @ Sonu (AW-1) that he is running his own Karyana Shop situated at Bazar No.1, the onus fell on the Petitioner/Tenant to show that the Karyana Shop in which, the said witness was working, actually belonged to himself only, and that he was not working there as employee of some body. But no evidence such as by way of any Municipal record or of Trade Licence showing that the Karyana Shop situated in Bazar No.1, Ferozepur belongs to Landlady's son, was forthcoming from the Petitioner's side.

5. It may be mentioned further that during the course of hearing, this Court asked Ld. Counsel for Petitioner to specify exactly which

Shop was in possession of the Landlady, the existence of which was allegedly suppressed by her in the Eviction Petition. In response, Petitioner's counsel drew attention to **Annexure P-3**, which is on Page 59 of the Paper Book, and in which the Shop situated to the West of the demised Shop has been depicted. On further questioning by the Court, Ld. Counsel on instructions from his client admitted that the said adjacent Shop was in occupation of a Tenant by the name of 'Binder Auto Works', since before filing of the Eviction Petition, and still continues to be occupied by the same Tenant. In this view of the matter, there is no justification to hold that the Respondent/Landlady was guilty of any wilful suppression, since in terms of Section 13(3) of the East Punjab Urban Rent Restriction Act, she was obliged to disclose the fact of being in actual possession of any other similar premises within the Municipal Limits, but not of any such premises which admittedly was not in her own occupation.

6. Both the Ld. Courts below were therefore, justified in coming to the decision that the Respondent/Landlady had succeeded in making out a case for eviction of the Petitioner/Tenant on account of her personal bona fide requirement of the same in order to enable her own son to start his business therein.

7. No grounds are therefore, made out to interfere with the concurrent decisions of both the Ld. Courts below on account of which, this Revision is dismissed.

(SUDIP AHLUWALIA)
JUDGE

January 14, 2020

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |