

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

**CR No. 4594 of 2019 (O&M)**  
**Date of Decision: 04.02.2020**

Bakshish Singh

...Petitioner

Versus

Gurmit Kaur

...Respondent

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:     Mr. V.K.Thakur, Advocate  
                     for the petitioner.

                     Ms. Bhavna Kapoor, Advocate  
                     for the respondent.

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**ANIL KSHETARPAL, J. (ORAL)**

By this order, Civil Revision Nos. 4594 and 4595 of 2019 shall stand disposed of.

In both the revisions, same landlord has filed two eviction petitions. Ground of eviction i.e. bona fide personal necessity is common. The shops are adjoining. Both the shops were initially owned by Kulwant Singh. In the Civil revision filed by Dalip Kumar, Kulwant Singh thrice made attempt to eject the tenant but failed whereas in the civil revision filed by Bakshish Singh, Kulwant Singh once filed a petition for ejectment but failed. It is alleged by the tenant that in order to circumvent the previous orders, property was transferred through registered document dated 28.02.2012 in favour of respondent Gurmit Kaur sister of the wife of Kulwant Singh. It is being claimed that such sale deed/ transfer of title is only for the purpose of securing order of eviction. The tenant contested the petition on the ground that such transfer deed dated 28.02.2012 is sham. It is claimed that the transaction is only camouflage to avoid the findings arrived

Both the Courts have failed to examine the contentions of the tenant and decided the cases on the ground that there is valid sale deed in favour of sister-in-law i.e. Gurmit Kaur. Both the Courts were expected to examine as to whether transfer of property was only with a view to circumvent the previous orders dismissing the eviction petitions filed by the previous owner or not. At least, once the tenant raises a contention, then the Court is obliged to examine the same. In the present case, on careful reading of the orders passed by both the Courts, it is apparent that both the Courts have failed to examine the contention of the tenant. Learned counsel appearing for the respondent has relied upon a judgment passed in the case of ***Roshan Lal Vs. Ved Prakash 2002(2) R.C.R (Rent) 494*** to contend that the sale of the property in favour of the relative is not bad and therefore, the petition on behalf of subsequent vendee (landlord) is maintainable. However, the plea taken by the tenant in the written statement was required to be examined by the Courts, particularly in view of the fact that in the case against Dalip Kumar, Kulwant Singh had previously filed a petition under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 and the moment, leave to contest was granted on 22.02.2012, he immediately transferred the property in favour of his sister-in-law on 28.02.2012.

Keeping in view the aforesaid facts, the orders of eviction passed by the Courts below are set aside. Cases are remitted back to the Ld. Rent Controller to frame an additional issue i.e. whether transfer of the property in favour of landlord by instrument dated 28.02.2012 is sham and to circumvent the effect of orders previously passed against the previous owner/landlord Kulwant Singh.

Parties through their counsel are directed to appear before the  
Ld. Rent Controller on 20.03.2020.

Disposed of.

All the pending miscellaneous applications, if any, are disposed  
of, in view of the abovesaid judgment.

**(ANIL KSHETARPAL)**  
**JUDGE**

04.02.2020  
Maninder

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