

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

CR-5862-2014 (O&M)
Date of decision: 10.12.2021

Kailash Grover

.....Petitioner

versus

Pankaj Chugh (since deceased)
through LRs

.....Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Prateek Mahajan, Advocate
for the petitioner.

Mr. Deepak Sharma, Advocate
for the respondents.

FATEH DEEP SINGH, J.

CM-18859-CII-2014

This application has come about by the applicant/petitioner-landlord-Kailash Grover, whereby, a prayer has been made for allowing documents Annexures P-1 to P-4 to be brought by way of additional evidence.

Upon hearing counsel for the applicant/petitioner,

since these documents Annexures P-1 to P-4 all already within the knowledge of the applicant/petitioner and neither in his pleadings has taken up the same by way of filing of rejoinder/replication or could mention in his evidence when specific plea has come about in the written reply of the tenant, rather, by this initiation of application, the landlord is trying to improve upon his case and filling the lacuna to the prejudice and disadvantage of the tenants and that nothing in these documents would assist the Court in coming to the judicious adjudication in the matter and has placed reliance on the judgments titled as 'Ashok Kumar versus Aman Kumar and others' 2010(1) R.C.R. (Civil) 937; 'Surjit Singh and others versus Gurwant Kaur and others' 2015(1) SCC 664 and 'Noor Mohd. and others versus Asha Sharma' 2018(3) R.C.R. (C) 920 are of no use. When from these documents, it is reflected that with the previous tenants, a number of eviction applications for the premises were pending and which entire set has not been brought on the record. Such an application at a belated stage, needs to be discouraged. The application for additional evidence is hopelessly without merits, stands dismissed.

Let arguments on main revision be heard.

CR-5862-2014

How a mighty landlord can force a timid tenant out of tenanted premises purely by misconstruing the facts and putting the law to his advantage is all that needs to be adjudicated in the present dispute.

Heard Sh. Prateek Mahajan, Advocate for the petitioner and Mr. Deepak Sharma, Advocate for the respondents and with their assistance, had gone through the records. Admittedly, Pankaj Chugh, the respondent before the learned Rent Controller was inducted as a tenant by the main petitioner-Kailash Grover, landlord, in a booth situated in Sector 11, Panchkula through registered lease/agreement dated 05.07.2005 for five years. The initial rent agreed to be paid by tenant was Rs.5,800/- per month subject to increase of 5% every year. The landlord invoked the jurisdiction of the Rent Controller under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 for the ejectment of the tenant, present respondent before this Court, that the tenant has failed to pay rent with effect from July, 2010 at the rate of Rs.7,350/- per month and further, the demised premises

were required by the landlord for *bonafide* personal necessity as he himself wanted to start a business.

The landlord, in his response, took the plea though admitting the relationship that since 30th June, 2010, the tenancy of the tenant in the premises was extended indefinitely and the same being in perpetuity and claim that the initial rent was Rs.5,800/- per month which has been increased to Rs.7,051/- per month. It is the case of the tenant that after 30.06.2010, the landlord failed to receive the rent in spite of his request and denied the claim of the landlord of non-payment of rent or the ejectment of the tenant on the grounds of *bonafide* personal necessity and rather, took the plea that with the motive to throw the tenant out of the premises, the instant petition has come about. The learned Rent Controller framed the following issues:-

1. Whether the petitioner is entitled for ejectment of the respondent from booth No.26, Sector-11, Panchkula on the grounds mentioned in the petition?OPP
2. Whether the petition is not maintainable?OPR
3. Whether the petitioner has no locus standi to file the petition?OPR
4. Whether the petitioner has concealed the true facts from the court?OPR
5. Relief.

The landlord testified as PW-1 through his affidavit Ex.PW-1/A and examined PW-2-Inder Lal through his affidavit Ex.PW-2/A and in the manner proved lease deed Ex.P-1 and a copy of FIR Mark-A. The tenant deposed as RW-1 through his affidavit Ex.RW-1/A and in the process proved documents Ex.R-1 to Ex.R-50.

The Court of learned Rent Controller, Panchkula through judgment order dated 04.09.2013, allowed the eviction application with costs and ordered ejectment of the tenant from the premises in question.

The tenant-Pankaj Chugh, preferred an appeal before the Appellate Authority, Panchkula, which vide impugned findings dated 29.05.2014, allowed the appeal and set aside the findings of the Rent Controller and that is how the parties are before this Court in this appeal by the landlord.

Appreciating the submissions, the tenant in his written reply to the eviction petition has taken a categorical stand that the claim of the landlord that he requires the premises for his own *bonafide* personal necessity, was wrong and in fact, the landlord wanted to enhance the rent arbitrarily and illegally and that earlier also, the landlord has filed a rent

petition for ejectment against the previous tenant and got the premises vacated and, thereafter, the same was let out to the present tenant at a higher rent. This contention, as per the arguments put forth by the respondents' counsel, has not been controverted in the pleadings as a replication/rejoinder to the same, has not been filed by the landlord and to which arguments, Mr. Prateek Mahajan, learned counsel for the petitioner was unable to controvert. Furthermore, the very cross-examination of the tenant, as has been pointed out by the counsel for the respondents shows that landlord as PW-1-Kailash Grover, in his cross-examination, accepts that earlier the demised premises was let out on rent and was got vacated on 08.06.2004 and that he had filed against the previous tenant, eviction application from the shop in question and had got the shop vacated on the grounds of **non-payment of rent and personal necessity**.

To the specific query of the Court, counsel for the appellant could not convince how and by what means, the petitioner-landlord can wriggle out of such an admission in his own evidence and which fact has been further reiterated in the cross-examination of the tenant as RW-1. Since, the

ground of eviction on the basis of non-payment of rent had been given up before the trial in the Court of the learned Rent Controller and thereby, only ground of *bonafide* personal necessity subsists. The onus of this issue No.1, lay heavily upon the tenant-petitioner and who has failed to establish it to the hilt. The learned Appellate Authority in the impugned findings has taken into consideration this aspect of the matter, together with the fact as has come in the cross-examination of the landlord as PW-1, he is running another cloth business in Sector-4, Panchkula, rather negates this plea so raised by the landlord. It is not a case where the landlord *bondfide* requires the premises either for his family member or for himself, as he accepts in his cross-examination that his son was working as a J.E. in PUDA and, therefore, leaves no scope that there is any requirement by the landlord of such premises. Learned counsel for the petitioner has placed reliance on the judgments titled as 'Ramjidas versus Rambabu' 2000(9) SCC 329; 'N.R. Narayan Swamy versus B. Francis Jagan' 2001(6) SCC 473 and 'Om Parkash Mehta versus Gurdial Mal Sharma' 2017(4) R.C.R. (Civil) 517 does not cuts much ice on account of factual disparity, rather, what appears to this Court that the landlord has tried to misconstrue

the facts and by surreptitiously hiding the truth has set up this ground of *bonafide* personal necessity and, therefore, the petitioner's counsel cannot drive any advantage out of the cited ratio.

The learned Appellate Authority, Panchkula, has given a well reasoned finding which needs to be upheld. The landlord has tried to misuse the process of the Court for a motivated cause which does not comes to his aid.

The findings of the Appellate Authority needs to be upheld and there being no merits in the Revision, the same stands dismissed, however, imposing costs of Rs.20,000/- to the petitioner, for taking the law for a ride, to be deposited before the Registry of this Court and further, be remitted to the Mohali Forest Department for ensuring tree plantation drive with this money which would be certified by the concerned District Forest Officer as to the planting of trees and in case of failure to pay, the same shall be recovered as arrears of revenue. Registrar (Admn.) to monitor.

(FATEH DEEP SINGH)
JUDGE

10.12.2021

Neha

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