

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 7056 of 2017 (O&M)

Date of Decision: 20.04.2021

Dr. Sunil Grover and Another

... Petitioner(s)

Versus

Mrs. Kiranjot Kaur

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Mansur Ali, Advocate
for the petitioners.

Ms. Puja Chopra, Advocate
for the respondent.

Anil Kshetarpal, J.

The petitioners herein are the tenants of a commercial property.

Their application for leave to defend the petition filed under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as “the 1949 Act”) has been dismissed. This revision petition has been filed while assailing the correctness thereof.

2. The respondent-landlady, who claims to be a Non-Resident Indian, filed a petition for immediate delivery of the possession of the commercial premises in the year 2013. The respondent claims that she purchased three shops, which formed a part of a bigger building, vide a sale deed dated 16.07.2008. Her husband and son have also purchased the adjoining properties. She filed the petition claiming that she requires the possession of all the three shops in order to construct a super market along

tenants filed an application for leave to defend. In the first round application for leave to defend was declined. However, in the revision petition, the case was remitted back to the Rent Controller to re-decide the application for leave to defend. Now, once again, the Rent Controller has declined to grant leave to defend.

3. This Court has heard learned counsel for the parties at length and with their able assistance, perused the paper-book.

4. Learned counsel representing the petitioners has raised three contentions:

1. The description of the tenanted premises has not been properly given and therefore, the rent petition is not maintainable.
2. Further, the landlady has failed to disclose that she is also the owner of the other commercial properties.
3. Further, the landlady claims bonafide requirement in order to demolish the existing structure and construct a super market along with her husband and son. However, the husband has given an affidavit to the effect that they would construct separately. Learned counsel, hence, contends that the petitioners are entitled to the leave to defend.

5. Per contra, learned counsel representing the respondent-landlady contends that the tenanted premises have been sufficiently identified by the properties located in all the four directions. He, hence, submits that there is no dispute with regard to the identity of the property. He

further contends that the petitioners do not dispute that they are paying rent to the landlady and they are tenants under her. He, hence, contends that there is hardly any dispute with regard to the description of the property.

6. With regard to the second argument of learned counsel for the petitioners, learned counsel representing the respondent submits that on 28.12.2011, the family members of the landlady had signed a memorandum of family settlement acknowledging the family settlement arrived at between them at a time prior thereto. In accordance with the aforesaid family settlement, 2/3rd share of the residential property fell to the share of the landlady. She, thereafter, is not the owner of any other commercial property. He further contends that the affidavit being relied upon by the learned counsel for the petitioners does not advance their case because the husband of the landlady has only stated that they shall construct the building separately. He submits that rather it goes to prove that the family members of the respondent-landlady do plan to construct the building after demolishing it.

7. After having heard the learned counsel for the parties at length, this Bench is of the considered view that there is no substance in the petition. A bare perusal of Annexure P1, the petition filed under Section 13-B of the 1948 Act, it is apparent that apart from the shop number, the landlady had also identified the property by giving the description of the properties situated in all the four directions. Still further, the landlady has described the property by shop No. 1284/4 located on Anardana Chowk, Patiala. The tenants themselves claim that they are in possession of shop No. 1284/4C, which is a part of bigger building. Thus, there is no dispute

regarding the identification of the property. It is not the case of the petitioners that they are in possession of some other property on Anardana Chowk. They also do not dispute that they are not the tenants of the landlady. Consequently, there is no force in the 1st contention.

8. As regards the next argument, it is sufficient to note that the landlady has specifically pleaded that vide memorandum of family settlement dated 28.12.2011, the prior family partition of the properties was acknowledged and only 2/3rd share of the residential property fell to her share. The tenants have not produced any material to create doubt on the genuineness of the aforesaid family settlement. Hence, this Bench expresses its inability to accept this argument of the learned counsel for the petitioners.

9. Next argument of learned counsel for the petitioners is also without any substance because the alleged affidavit of the husband of the landlady only states that he, along with his wife and son, are owners of the properties at Anardana Chowk and they would construct separately. However, that does not mean that the landlady does not have a bonafide necessity.

10. Still further, it is well settled that the High Court, while exercising revisional jurisdiction, has a limited scope. In the absence of any perversity or any substantive or material error in the order passed, the High Court is not expected to interfere. Reliance in this regard can be placed on the five Judge Bench judgment of the Hon'ble Supreme Court in ***Hindustan Petroleum Corporation Limited v. Dilbahar Singh (2014)9 SCC 78***.

11. For the reasons stated above, no ground is made out to interfere.

Hence, the revision petition is dismissed. However, the petitioners are

granted three months time to hand over the vacant possession of the tenanted premises to the landlady.

12. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

April 20, 2021
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No