

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

CR-7553-2018 (O&M)

Date of decision: December 21, 2021

Ram Kishan

...Petitioner

Versus

Renu Mehta and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Suman Jain, Advocate for the petitioner/tenant.

Mr. GurcharanDass, Advocate for the respondent-landlords.

ARUN MONGA, J. (ORAL)

Petitioner/tenant is in revision against the concurrent eviction orders passed by the authorities below vide order dated 18.03.2017 passed by Rent Controller, Hisar and findings having been affirmed by Appellate Authority, Hisar vide order dated 18.10.2018. His eviction from the demised premises i.e. House No.1, Barrack No.3 (Middle Part), bearing Municipal No.250-B/324 situated at Patel Nagar, Hisar has been directed. Grounds of eviction are personal and *bonafide* necessity and dilapidated condition of the premises.

2. Learned counsel for the petitioner/tenant argues that the respondents/landlords have concealed the factum of having other properties in their possession. The other two properties situated on both sides of the demised premises are in possession of the respondents. The respondents ought to have been non-suited on the ground of concealment alone. However the learned Rent Controller and Appellate Authorities did not go into this aspect and passed the impugned eviction orders.

3. Per contra, learned counsel for the respondents/landlords canvasses that the landlord is master of his own need and tenant cannot dictate terms to the landlord. Both the Authorities below have given cogent reasons while ordering the eviction of the petitioner from the demised premises.

4. I have heard rival contentions of learned counsel for the parties and have perused the records carefully.

5. The relevant extract of the findings of the learned Rent Controller reads thus:-

“Now applying the legal preposition on the facts of the present case. The petitioners through their special power of attorney produced the oral evidence of PW-4 Ram Bhaj, who reiterated the contents of the plaint and stated that the ground floor was taken on rent by the respondent in 2004 and since then the respondent is the tenant of the petitioner. That the respondent has committed various acts which have reduced the utility of the demised premises. That the demised premises was constructed about 45 years ago. The walls of the demised premises are weak. The cracks were visible. The roof, walls and floor of the demised premises were in a dilapidated condition and was likely to fall at any time. He further submitted that now apart from the dilapidated demised premises the petitioners needs the demised premises for their own use as the petitioner No.2 was born and brought at Hisar. He joined his job in steno line in Hisar court in the year 1995 and worked there for 11 years and in the year 2006 he joined as Judgment Writer. That the petitioners are presently living in Chandigarh because of their job profile and PW-4 i.e. father of petitioner No.2 is residing at Hisar. That now petitioner No.2 wants to make his own house at Hisar, wherein he can come and go and visit his parents and needs the property for his personal use. That there is no other land in the name of the petitioners No.1 and 2 in Hisar and therefore the ld. Counsel for the petitioners requested that the ground of personal necessity is exists, the tenant to be evicted. Whereas to rebut the same the respondent has examined himself as RW-1 and he stated that there exists no personal necessity in favour of the petitioners and the petitioners can visits his parents in their house and they do not require their own house in Hisar. This very much argument and submission of respondent does not bear any water as the petitioners are admittedly residing at Chandigarh due to their services but they want to build their own house at Hisar for

accommodation for residing whenever they came to Hisar. The fact that the house of his father is quite small and they cannot resident into it with family should also be taken into consideration. The landlord is the best judge of his own needs and just because the petitioners are temporarily living in Chandigarh does not give a right to the tenant to say that they do not require any house at Hisar. Furthermore, it is pertinent to mention here that the petitioners and the tenant have already been indulged in various civil and criminal litigation and even a criminal case State vs Ram Kishan was registered bearing FIR No.654 dated 7.11.2009 under Section 447/ 427/ 506/ 380/ 34 IPC and vide judgment dated 23.02.2015 Ram Kishan was sentenced to undergo rigorous imprisonment for six month. Hence, it is clear that firstly the petitioners are having personal necessity of the demised premises and respondent is not able to prove that there is any other house of the petitioners in Hisar except the demised premises. In addition to it, the condition of the building is in a very dilapidated condition and the parties are under serious litigation due to which the relation of the tenant and landlord has already went bitter. Therefore, in such circumstances, the petitioners are able to prove their personal and bonafide necessity on the file and on the basis of the same they are liable to get a decree for eviction against the respondent. I have no dispute with the case law cited by ld. Counsel for the respondent but same are not applicable to the facts of the present case. In view of the above discussion and reasoning, this issue is decided in favour of the petitioner and against the respondent.”

6. These findings were affirmed by the learned Appellate Authority

in the following terms:-

“15. It is the plea of the respondents that the demised premises is required by them for their personal use which is bona fide. The plea of the respondents is controverted by the appellant submitting that the respondents are permanent residents of Chandigarh and are employed there and they do not need the demised premises at Hisar for any purposes, whatsoever. This contention of the appellant has no ground to stand upon. It is settled law that the landlord is the master of his requirements. The plea of the respondents, that they have parents and family at Hisar and that they require some place to reside when they visit at Hisar is genuine and bonafide. The appellant cannot dictate his terms upon the respondents as to how to use the demised premises. The Honourable Supreme Court held in Anil Bajaj and another versus Vinod Ahuja, 2014 (2) RCR Civil 974, that where the landlord seeks eviction of the tenant from shop on the ground of bona fide requirement, it is not for the tenant to dictate the terms to the landlord as to how the property belonging to the landlord should be utilized by him. The facts of the present case

are well covered within the ambit of law laid down by the Honourable Supreme Court. There is no evidence on record to prove that the respondents are having any other residential house at Hisar where they could reside. Thus, the findings of the learned Rent Controller to the effect that the need of the respondents of the demised premises is bona fide and genuine is legal and valid and does not call for any interference.

16. The plea of the appellant, that the respondents did not take the grounds of personal necessity in the previous eviction petition and as such it is proved that there is no need of the respondents of the demised premises and the only purpose is to get the demised premises vacated, has also no ground to stand. Rather this fact itself indicates that the plea of bona fide necessity was taken by the respondents as and when the necessity arose. The respondents were not bound to take the plea of personal use in the previous evictions until they felt the necessity of the demised premises. Therefore, it is evident that the demised premises is required by the respondents for their personal use which is genuine and bonafide and the appellant cannot be a judge of the need of the respondents being a tenant. The findings of learned Rent Controller in this regard are legal and valid and are upheld.”

7. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this Court. No fault can be found with the findings of the Courts below.

8. There is no room for interference in the aforesaid valid reasons recorded by the Court below, with which I am in agreement.

9. Dismissed.

10. In the parting, it would be relevant to mention that vide order dated 26.02.2021, this Court had appointed a Local Commissioner to visit the demised property. He was requested to report about the existing state of affairs *qua* the property. Local Commissioner submitted his report dated 03.04.2021, the relevant portion whereof reads thus:-

“It is pertinent to mention here that I only visited the suit property i.e. only the ground floor and not the first floor as there was no path to go on the first floor. I also mention here that a

toilet is installed in between stairs which leads to first floor, especially there is no path going to the first floor, which is also having the rooms that can be seen easily by standing outside the house. Meaning thereby the toilet is installed intentionally so that no one can approach upstairs of the first floor. The suit property in question is in very poor condition and as stated by both the parties it is more than 70 years old. The walls have lost their strength as the bricks in the walls are fixed with mud and not by cement. There are many cracks in the walls, latakas and in the roofs. The south wall of the house from outside is in dilapidated condition and bricks thereof are found missing at certain places. The ground floor of the suit property is not having any bathroom. No room/ portion is subletted as stated by tenant. Plants are growing from the northern as well as southern walls. The floors of the suit property are made of tiles. The rooms and kitchen on the ground floor are not having any wooden doors or windows to shut.”

11. I am constrained to observe that the conduct of the petitioner leaves much to be said in view of the Local Commissioner's report. However, lenient view is being taken *qua* the same and the petitioner is being let off simply with costs of Rs.10,000/-, which shall be utilized to plant trees, in the neighbourhood where the petitioner resides, subject to the satisfaction of the Horticulture Officer of the District concerned, who shall file a report that the petitioner has indeed complied with the order and planted trees commensurate to the proportionate amount.

12. In view of the above, it is made clear that the petitioner shall handover the possession to the respondents of the entire property including the ground and first floor thereof, within 30 days from today, failing which the petitioner shall not only be exposed to the execution proceedings, but also be liable for contempt of Court.

13. The petitioner shall plant trees of deciduous and perennial in nature, of any variety viz. Neem, Amla, Gulmohar and/or Alstonia. Plantation shall be carried out under the supervision of the District Horticulture

Department. In case, the petitioner defaults in doing so, liberty is granted to the Registry to place the matter before this Court to report non-compliance thereof. Proof of plantation to be furnished by the petitioner along with bill in the Registry of this Court, with supporting letter from the Horticulture Department, to be placed before this Court upon receipt thereof.

14. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

December 21, 2021
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No