

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

CR No.8788 of 2015 (O&M)

CR No.8789 of 2015 (O&M)

Date of decision: 29.11.2021

Gayatri Kumar

...Petitioner

Versus

Darpan Kapoor and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Amit Jain, Sr. Advocate with
Mr. Ashok Sehgal, Advocate and
Mr. Varun Parkash, Advocate
for the petitioner.

Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Harmeet Singh, Advocate for the respondents.

ANIL KSHETARPAL, J.

By this order, CR No.8788 and 8789 of 2015 shall stand
disposed of.

All the parties to both the revision petitions are identical and the
rented premises in both the petitions are part of the same building. In both the
cases, the eviction petitions have been filed on the ground of bona fide
necessity of the landlords. Learned counsel for the parties are also common
and they are ad idem that these revision petitions can be disposed of by a
common judgment.

These revision petitions have been filed assailing the concurrent

findings of fact arrived at by the Rent Controller as well as the Appellate Authority while allowing the claim of landlords to get back the tenanted premises on the ground of bona fide personal necessity. The tenant after having lost in both the Courts below have filed the present revision petitions.

At the outset, it must be noticed that the landlords have been waiting to get back the possession of the rented premises for more than 15 years.

The landlords sought eviction of the tenant on the ground that they want to expand to their business as they are already in possession of the remaining part of the building. The landlords have claimed that they have purchased the property which was already in their occupation as a tenant vide sale deed dated 03.11.2003. The petitioner herein (tenant) was also in possession of certain part of the property at the time its purchase. The landlords have claimed that the tenant is in occupation of two small separate portions of SCO No.104-105, Sector 17C, Chandigarh and they want to expand their business therefore, their requirement for the aforementioned tenanted premises is bona fide.

Heard the learned senior counsel representing the parties at length and with their able assistance perused the paper books of the both the petitions as well as records of the Courts below which were requisitioned.

Learned counsel representing the parties have also filed their

respective written synopsis.

Learned senior counsel for the petitioner has assailed the correctness of the findings of the Courts below on the following grounds:

1. Whether both the authorities below have erred in law in deciding the case without consideration of material evidence on record?
2. Whether the landlords are guilty of concealment of acquiring ownership of SCO No.136 to 138 and its effect?
3. Whether in view of the subsequent events, the necessity set up in the petition can be held to be subsisting?
4. Whether the necessity of the respondents can be held to be a bona fide necessity and not a mere wish and desire?

Learned senior counsel representing the petitioner in both the revision petitions while elaborating has submitted that the Rent Controller as well as Appellate Authority have proceeded in a casual manner and findings recorded by the officers are based on mere conjecture and surmises. It may be noted here that this Court has carefully read the judgments of the Courts below in both revision petitions. In the considered opinion of the Court, the findings recorded by the Rent Controller cannot be said to be recorded in a casual manner. Both the authority (Rent Controller as well as the Appellate Authority), on appreciation of the evidence produced by the parties, have

recorded findings of fact. Hence, there is no substance in the first argument.

The second argument of learned counsel for the petitioner is with regard to concealment of facts by the landlords. It has been asserted that the landlords have also purchased SCO No.136 to 138 which was concealed consequently, the authority should have dismissed the case. Admittedly, RA No.3 was filed on 07.01.2004 whereas the conveyance deed in favour of corporate entities was executed subsequent thereto. Furthermore, when the landlords appeared in evidence they disclosed that the companies have purchased the said properties. Hence, there is no concealment. No doubt, before filing case No.1125/2013 on 11.01.2007, the corporate entities have purchased the aforesaid premises. However, it is evident that SCO No.136 to 138 have been purchased by the corporate entities. Therefore, the landlords cannot claim that these properties exclusively belong to them. Moreover, landlords while appearing in evidence have disclosed and explained the position. In such circumstances, it would not be appropriate for the Courts to dismiss the eviction petitions, on concealment of facts, particularly when these facts have been disclosed in the evidence and as per the law, the ownership of the property vests in corporate entities. No evidence has been led to prove that corporate entities exclusively belong to the landlords. A corporate entity being an artificial person, is recognised by the law to be owner of the property. It can own and possess property. Hence, there is no

substance in the second argument.

The next argument of learned counsel for the petitioner is with reference to construction of three more floors on SCO No.136 to 138. It may be noted here that it is not the case of the tenant that the corporate entities after having purchased SCO No.136 to 138 have rented out the premises to some strangers. The landlords are expanding their business. This litigation is pending for the past 15 years. In the meantime, the situation has changed. In this case, the landlords have not rented any part of the premises and they are utilising the various parts of the property for their own business. Hence, the tenant cannot be permitted to defeat the eviction petition only on the ground that during the long pendency of the cases, some additional premises have been acquired by the corporate entities linked with the landlords.

The last argument of learned counsel for the petitioner is to the effect that the landlords filed the petition immediately after its purchase. The counsel relies upon the judgment passed by the Hon'ble Supreme Court **Indrasen Jain vs. Rameshwardas, (2005) 9 SCC 225**. It may be noted here that the landlords as well as the tenant at one point of time were in occupation of the property as tenants in separate portion of the property. Thereafter, the landlords purchased the entire property and filed application for eviction in order to expand their business. In such circumstances, the judgment passed by the Hon'ble Supreme Court **Indrasen Jain (supra)** will

not be applicable. On careful reading of the judgment, the Court found out that the landlords do not fall within the definition of a retired government servant and hence, he is not entitled to file a petition for eviction under Chapter III-A of MP Accommodation Control Act, 1961. Furthermore, the Hon'ble Supreme Court, in para 11 has already observed that the Bench expressed its views on the issue of bona fide requirements since learned counsel for the parties had spent considerable time over it. However, the Court itself observed that the decision on the first issue itself is sufficient to knock off the petition filed by the landlords. Moreover, in that case the landlord was not in occupation of any part of the premises.

Learned counsel representing the tenant also relies upon the judgment in **Jai Parkash Gupta (dead) thr. LRs vs. Riyaz Ahamad and anr., (2009) 10 SCC 197** to contend that in eviction proceedings under the Rent Act, subsequent events are required to be taken into consideration. This Court has already taken the note of the subsequent events and therefore, the aforesaid judgment does not help the tenant.

The next judgment relied upon by the learned counsel for the petitioner is **Adil Jamshed Frenchman (dead) by Lrs. vs. Sardar Dastur Schools Trust and ors., (2005) 2 SCC 476** to contend that mere wish or desire of the landlord is not sufficient to order eviction. In the present case, the aforesaid judgment is not applicable particularly when it is established

that the landlords have expanded their business and even after purchase of another building, the same has also been utilised by themselves. They are not alleged to have rented, given on lease even an inch of the said property. The landlords want to expand their business and this requirement of the landlords in the considered opinion of the Court is bona fide and it is not a mere wish or desire.

Furthermore, a five Judge Bench of the Hon'ble Supreme Court in **Hindustan Petroleum Corpn. Ltd. vs Dilbahar Singh, (2014) 9 SCC 78**, has held that the High Court is not required to interfere with the findings of fact recorded by the Rent Controller and Appellate Authority on reappraisal of the evidence. The revisional jurisdiction of the High Court under the Rent Act, is confined to find out as to whether the findings of fact recorded by the Rent Controller or the Appellate Authority is in accordance with law and does not suffer from any grave error. The revisional Court finds out while deciding a revision application, that the findings arrived at, by the authorities are perverse or have been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of evidence or is grossly erroneous. In the opinion of the Court, the petitioner has failed to draw the attention of the Court, to such aspects, warranting interference.

Keeping in view the aforesaid discussion, there is no merit in both the revision petitions. Hence, dismissed. However, keeping in view the

facts of the case, the tenant is granted three months time to make an alternative arrangement.

All the pending miscellaneous applications, if any, are also disposed of.

29.11.2021

(ANIL KSHETARPAL)
JUDGE

ashok

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No