

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT  
CHANDIGARH**

**Civil Revision No. 2541 of 2020(O&M)**

**Date of Decision: January 21 , 2021.**

Mehar Chand

..... PETITIONER (s)

**Versus**

Harish Chander and another

..... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Raj Kumar Kakkar, Advocate  
for the petitioner.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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**LISA GILL, J.**

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

**CM No.10294-CII of 2020**

Annexures P1 to P7 are taken on record subject to just exception.

Exemption from filing certified copies thereof is granted.

Application is disposed of.

**CM No.87-CII of 2021**

Annexures P8 to P12 are taken on record subject to just exception.

Exemption from filing certified copies thereof is granted.

Application is disposed of.

**CR No.2541 of 2020(O&M)**

Petitioner-tenant is aggrieved of judgment dated 18.01.2020 passed by the learned Appellate Authority, Ferozepur whereby petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short, the 'Act') filed by the respondents-landlords has been allowed while setting aside judgment dated 21.12.2017 passed by the learned Rent Controller, Ferozepur.

Brief facts necessary for adjudication of the matter are that, respondents-landlords filed a petition under Section 13 of the Act seeking eviction of the present petitioner from the shop as described therein. It is claimed in the petition that respondents are the owners and landlords of shop No.48 which had fallen to their share in family settlement dated 16.09.1994. The petitioner is stated to be tenant in the said premises at a monthly rent of ₹500/- per month. Landlords sought ejectment of the petitioner on the ground of premises being unsafe and unfit for human habitation as well as requirement of the landlords for personal use inasmuch as the shop is stated to be required for the use of Ritesh Goyal son of the applicant-landlord, Harish Chander. It is stated in the petition that landlords were carrying on their business of Halwai (Sweet shop) in shops No.44, 45 and 46 which have fallen to their share in the family settlement dated 16.09.1994, under the name and style of 'Bhagat Ji Ki Dukan'. It is stated that the same is a partnership business of Nitish Kumar son of Subhash Chander and Harish Chander as well as his sons – Vipul Goyal and

Ritesh Goyal, who assist their father in running of the business. Business of sale of milk was also stated to be carried out by the landlords. It is further stated that landlords also had a shop on rent situated outside Delhi Gate, Ferozepur city where of Halwai (Sweet) shop too is being run. It is further stated that their family members have increased with their children having grown up, thus they wished to settle their sons by helping establish their independent business. It is stated that Ritesh Goyal, 29 years old married son of respondent-Harish Chander, who was blessed with one child, decided to start his independent life by setting up his own independent business. For this purpose, demised premises was required by the landlords. Copy of the petition under Section 13 of the Act is attached as Annexure P1.

Petition was resisted by the petitioner-tenant while maintaining that premises in question were fit for habitation. The landlords were denied to be owners of the demised premises on the basis of family settlement. It is however admitted that petitioner was a tenant in the premises since 1968 and was regularly paying rent to respondent, Harish Chander. It was denied that the shop in question was required for personal *bonafide* necessity of the landlords. It is alleged that the landlords have simply become greedy and they simply wished to increase the rent. Shop No.47, it is stated, belonging to the landlords had been let out on rent. Rent of said shop had been increased from ₹500/- per month to ₹4,000/- per month and petitioner was pressurized to increase rent to ₹7,500/- per month. Present petition, it is stated, has been filed with a view to enhance the rent. Landlords were claimed to be in possession of nine shops other than demised premises which was not revealed in the petition. Copy of the Written

Statement is attached as Annexure P2.

Learned Rent Controller, Ferozepur vide judgment dated 21.09.2017 dismissed the petition filed by the respondents-landlords while holding that evidence on record did not prove the building in question to be unsafe and unfit for human habitation and neither were respondents-landlords able to prove their personal *bonafide* requirement. Appeal preferred by the respondents-landlords was however allowed by the learned Appellate Authority, Ferozepur vide decision dated 18.01.2020 on the ground of personal *bonafide* necessity of the landlords. Ground of the premises being unfit and unsafe for human habitation was not found proved.

Aggrieved therefrom, present petition has been filed by the petitioner-tenant.

Learned counsel for the petitioner vehemently argues that the landlords owned nine shops apart from the demised shop, but they have intentionally not mentioned this fact in the petition. Apart from shops No.44, 45, 46 and 48 mentioned in the petition, they have got vacated two more shops bearing Nos.49 and 52. It is further submitted that respondents-landlords have not clearly stated in pleadings that they are also owners of shop No.54 to the extent of 1/4<sup>th</sup> share, as is mentioned in the alleged family settlement. Moreover, the said family settlement, it is submitted, is not a registered document, therefore, no reliance can be placed thereon by the respondents to claim ownership thereof. It is thus prayed that the present revision petition be allowed and impugned judgment dated 18.01.2020 passed by the learned Appellate Authority, Ferozepur be set aside and judgment dated 21.12.2017 passed by the

learned Rent Controller, Ferozepur be upheld, consequently dismissing petition under Section 13 of the Act filed by the landlords.

I have heard learned counsel for petitioner and have gone through the file with his assistance.

It is not denied that petitioner has been a tenant in the premises i.e., Shop No.48, Bazar No.2, Ferozepur Cantt. since 1968, paying the rent to respondent No.1. Thus relationship of landlord and tenant cannot be denied. Initially the rent was ₹55/- per month and thereafter increased to ₹500/- per month. Insofar as the ground that demised premises were unfit and unsafe for human habitation is concerned, both the learned courts below have decided against the respondents-landlords. In respect to question of personal *bonafide* necessity, it cannot be denied that requirement of son of landlord for the premises can definitely be taken to be requirement of the landlords. Argument raised is that Ritesh Goyal, son of respondent-Harish Chander, is already running the business in question and there is thus no question of him running an independent business. Reference is made to cross-examination of Ritesh Goyal and Harish Chander, AW1 and AW2, respectively, wherein they have admitted that Ritesh Goyal is manning the main counter of one of the shops and assisting his father in running of the business with his father. In my considered opinion, the same cannot by any stretch of imagination be construed to prove that he has no intention to start his own independent business and neither it can be said that he already has an independent business merely because he is sitting on/looking after the main counter of the shop in question.

Another argument vehemently raised on behalf of the petitioner is

that the landlords already have a flourishing business with their business running from various other shops and thus need no other shop. Said argument is clearly devoid of any merit. Intention of respondent-landlord, who seeks to settle his son by setting up an independent business for his son cannot be presumed to be *malafide* or not genuine without any evidence to substantiate the same. Merely because the landlord has a flourishing business cannot be presumed to be an impediment or a factor to view the landlord's case with suspicion. It has been held by the Hon'ble Supreme Court in Sarla Ahuja v. United India Insurance Co. Ltd., 1998(2) RCR(Rent) 533 that the requirement of landlord for occupation of the tenanted premises must be bona fide and the Rent Controller shall not proceed on the presumption that requirement is not *bonafide*. In the present case, the landlord has clearly proved personal *bonafide* necessity. Merely because the respondent-landlord father was already having a flourishing business, does not preclude the landlord from claiming *bonafide* personal necessity of the demised premises, inasmuch as it is clearly pleaded and stated that he sought to settle his son by starting his own independent business. In the case of Rajinderpal Singh v. Mela Ram (deceased) through LRs, 2017 (3) RCR(Civil) 544 it has been held by a coordinate Bench that merely because grandson was working alongwith his grandfather would not take away his right to improve his status in life by running an independent business.

Learned counsel for the petitioner vehemently argues that there is concealment on the part of respondents as they have not revealed all the properties owned by them, including those which are on rent outside Delhi Gate, Ferozpur city. It is however not denied that family settlement relied upon by

the landlords is very much on record. Details of the property owned by the landlords are very much depicted in the said document. Learned counsel for the petitioner is unable to deny that the shops, which are in occupation of the landlords, have been duly mentioned by them and are so reflected in the depositions of AW1 Ritesh Goyal and Harish Chander AW2. It is correctly mentioned by the Appellate Authority that as per requirement of Section 13(3)(a) (ii) of the Act the word used is 'occupied' and not 'owned'. Furthermore, argument on behalf of the petitioner that there can be no reliance on the family settlement, as the same is not a registered document, is devoid of merit. The petitioner is indeed a stranger to the family settlement of the respondents-landlords and he has no *locus standi* to challenge the same. A valid family settlement, not under challenge by any of the family members cannot be questioned in proceedings under this Act. Reference in this respect can gainfully be made to decision of a coordinate Bench in **Sanjay Bansal v. M/s Kaithal Provision Store and another, 2018(1) RCR (Rent) 436**. Moreover, the petitioner in his Written Statement has clearly admitted his tenancy of Shop No.48 (demised premises) since 1968 under respondent-Harish Chander and that rent was deposited with the said respondent.

Learned counsel for the petitioner is unable to point out any illegality, perversity or infirmity in the impugned judgment dated 18.01.2020 passed by the learned Appellate Authority, Ferozepur, which calls for interference by this Court in exercise of revisional jurisdiction. Learned Appellate Authority, Ferozepur has correctly ordered ejectment of the petitioner on the ground of personal *bonafide* necessity of the landlord.

No other argument has been raised.

Keeping in view the facts and circumstances as above, I do not find any ground to interfere in the impugned judgment dated 18.01.2020 passed by the learned Appellate Authority, Ferozepur and the same is upheld.

Revision Petition is accordingly dismissed with no order as to cost.

January 21 , 2021.  
'om'

( LISA GILL )  
JUDGE

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