

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

CR No. 1722 of 2021 (O&M)

Date of Decision: September 16, 2021

RAMESH GOEL

.... Petitioner(s)

Versus

SUMAN

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Arun Kumar Singal, Advocate
for the petitioner.

Mr. Harkesh Manuja, Advocate
for the caveator.

LISA GILL, J.(oral)

This revision petition has been filed by the petitioner/tenant challenging order dated 06.01.2018, passed by learned Rent Controller, Panipat, whereby his ejectment has been ordered as well as order dated 06.07.2021, passed by learned Additional District Judge, Panipat, whereby petitioner's appeal has been dismissed.

Brief facts necessary for adjudication of the case are that respondent-landlady filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, seeking ejectment of the present petitioner/tenant from the demised premises i.e. a shop, on the ground that tenant is in arrears of rent, secondly she required the premises for her own bona fide use. It is pleaded that tenant took the demised premises on rent

from Kesar Dass (father-in-law of landlady), who expired on 02.03.2014. Kesar Dass sold the demised premises to the petitioner/landlady during his life time vide registered sale deed dated 05.09.2012 and after alteration of the size of property in the year 2013, rent was fixed as Rs.14,000/- per month. It is further pleaded that the tenant has not deposited rent without any cause since 01.04.2013 besides house-tax after paying the same only for one month. Landlady pleaded that she required the demised premises for her bona fide personal use as her husband is running a garment shop in the same market, after taking it on rent. It is further pleaded that the tenant owns another shop and landlady requested him to vacate the demised premises, but in vain. Hence, the petition was filed.

Present petitioner/tenant resisted the petition while taking various preliminary objections in the reply, while denying the landlady to be the owner of the demised premises. It was averred that present petitioner/tenant took the shop on rent from Kesar Dass at monthly rent of Rs.2,000/- and after his death, husband of the landlady demanded the rent at the rate of Rs.3,000/- per month which has been paid to the husband of landlady up to December 2015. Thereafter, landlady and her husband tried to forcibly dispossess the present petitioner/tenant from the demised premises qua which he filed a suit for permanent injunction. Husband of landlady was also challaned under Section 107/151 Cr.P.C. and thereafter, ejectment petition was filed. It is further averred that when landlady and her husband forcibly tried to dispossess the present petitioner/tenant, FIR No.

806 dated 20.07.2016 was also registered against them. Rent at the rate of Rs.14,000/- per month and house tax was denied. It is further averred that landlady and her husband are owners of many properties including one shop adjacent to demised premises, therefore, they are not in need of the demised premises. Dismissal of the petition was sought.

Following issues were framed by the learned Rent Controller on the basis of the pleadings:-

- i) Whether the respondent tenant is liable to be evicted from the tenanted premises on the ground of non payment of rent?OPP.
- ii)Whether the tenanted premises is required by the petitioner landlord for bona fide requirement? OPP
- iii)Whether the rent petition is liable to be dismissed for concealment of true and material facts by the petitioner landlord? OPR
- iv)What relief.

Evidence was led by both the parties in support of their respective claims/stands.

Learned Rent Controller on considering the evidence on record, facts and circumstances of the case concluded that ground of the tenant being in arrears of rent is not available for eviction to the landlady. However, it was held that she had successfully proved personal bona fide necessity on the basis of evidence on record, thus ejectment of the present petitioner was ordered.

Appeals were preferred by both the landlady as well as the tenant/present petitioner. The landlady challenged finding of the learned Rent Controller qua arrears of rent whereas the tenant challenged his eviction. Learned Additional Judge, Panipat, vide decision dated 06.07.2021 dismissed both the appeals. Aggrieved therefrom, this revision petition has been filed by the tenant.

Learned counsel for the petitioner vehemently argues that the landlady has not come to Court with clean hands, therefore, she is not entitled to any indulgence whatsoever. Learned counsel refers to the testimony of landlady in respect to the rate of rent to submit that such vacillating statement should be rejected in toto and no reliance can be placed on this statement in respect to personal bonafide necessity as well. It is further submitted that there is nothing on record to indicate that the respondent-landlady was ever running any business in a shop, which she may have taken on rent in the market. Moreover, two shops on the same premises are stated to have been vacated during the pendency of the petition and the landlady, it is stated is in fact running her business from home, therefore, in this situation, there is no bona fide requirement of the shop from where petitioner is conducting his business. Learned counsel for the petitioner further submits that the learned Courts below have wrongly observed that the shops from where respondent-landlady is conducting her business, are situated towards the back of the premises away from the main street. Learned counsel for the petitioner while referring to the site plan

(Ex.P-1), submits that petitioner has a frontage of only 9 feet on the main street and frontage of 18 feet is on the side street. It is thus prayed that this revision petition be allowed.

Learned counsel for the caveator while supporting the verdicts of both the Courts below to the extent of eviction of the petitioner being ordered, seeks dismissal of this petition.

I have heard learned counsel for the parties and have gone through the file with their assistance.

The ground regarding arrears of rent has been held to be not available to the landlady, therefore, there need be no deliberation on this aspect. In respect to the personal bona fide necessity, landlady has claimed that she requires the premises for running her cloth business. In so far as relationship of landlady and tenant is concerned, same is clearly proved by the evidence on record. Learned counsel for the petitioner is unable to deny that landlady was and is in fact still running a garment business. Argument that two other shops have fallen vacant during the pendency of the petition, is not sufficient to non-suit the respondent landlady. It is relevant to note at this stage that factum of two shops falling vacant was immediately brought on record by landlady and she took a specific plea that she would require entire premises in question to expand her business. Perusal of the site plan Ex.P1 reveals that demised premises is a part of the area depicted in the plan. Demised premises is an 'L' shaped area and a perusal of the site plan augments and buttresses the stand taken by the landlady. Learned Appellate Authority has rightly held that inclusion of the demised premises will

doubtlessly augment the size of the shop/s in possession of the landowner for necessary expansion of her business. It is a settled position that a landlord is the best judge of his or her personal requirement and a tenant cannot dictate in this regard to say that the landlord is in possession of sufficient area or premises and further that the area in possession of the tenant is not required. There is nothing on record to indicate that personal necessity set forth by the landowner is not bona fide or is a mere whim, fancy or desire or an excuse to get the premises vacated.

Similarly, argument raised by learned counsel for the petitioner regarding frontage of the shop is clearly irrelevant and of no avail to the petitioner.

No other argument has been raised.

Learned counsel for the petitioner is unable to point out any illegality or infirmity in the concurrent findings returned by the learned Rent Controller, Panipat and the appellate authority, which calls for interference of this Court in exercise of revisional jurisdiction. Accordingly, order dated 06.01.2018, passed by learned Rent Controller, Panipat as well as order dated 06.07.2021, passed by learned Additional District Judge, Panipat, are upheld.

This revision petition is dismissed with no order as to cost.

September 16, 2021

Sunil

**(Lisa Gill)
Judge**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No