

Sr.No. 111 (2 cases)

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

CR-2838-2021 (O&M)

Date of decision: 18.11.2021

Ashwani Kumar

...Petitioner

Versus

Surjit Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Prateek Gupta, Advocate,
for the petitioner.

Mr. R.S. Chugh, Advocate,
for the respondents/caveators.

ARUN MONGA, J. (ORAL)

Petitioner/tenant is in revision against the concurrent eviction orders passed by the authorities below and whereby he has been directed to be evicted from the demised premises i.e. shop No.3 forming part of property No.B-XI-1709, Rarri Mohalla, near Gurudwara Kalgidhar Chowk, Ludhiana on the ground of bona fide “personal necessity” vide order dated 08.04.2016 passed by Rent Controller, Ludhiana and findings having been affirmed by Appellate Authority, Ludhiana vide order dated 31.08.2021.

2. No fault can be found with the findings of the Courts below.

The relevant extract of the findings of the learned trial Court reads thus:-

“23. Another plea taken by the respondent is that the petitioner has concealed the fact that the tenancy premises is a double storeyed building. On perusal of the site plan placed on record, there is no mention of the building being double storeyed. This fact has been admitted by PW1 in his cross-examination that the building is a double storeyed building and one room and bathroom is on the

second floor. However, there is no evidence to the effect that the room on second floor is suitable for the bonafide necessity of the petitioner. Moreover, it is for the petitioner/landlord to decide as to what building/property owned by him would be suitable for his personal necessity. The tenant can not dictate terms to the petitioner/landlord to use a certain portion of property to fulfill his necessity. The petitioner has pleaded that he requires the office-cum-sale outlet on the main road as his business carried on in the property at the backside of the demised shop is expanding. This court is thus convinced as to the bonafide requirement of the petitioner. As such, issue No.3 is decided in favour of the petitioner and against the respondent”.

These findings were affirmed by the learned Appellate

Authority in the following terms:-

“18. The contention of learned counsel for the appellant is that Shop No.2 is not in possession of Jasjit Singh. However, no evidence has come on record to disbelieve the plea of the petitioner that the shop is not occupied by Jasjit Singh. The another contention of the respondent is that the petitioner has concealed the fact that the tenancy premises is a double storeyed building and this fact has not mentioned in the site plan placed on record. Perusal of testimony of PW1 it is admitted by him in the cross-examination that the building is a double storeyed building and one room and bathroom is on the second floor. However, there is no evidence to the effect that the room on second floor is suitable for the bonafide necessity of the petitioner. Further counsel for the respondent preferred case law cited in case Krishan Lal &Anr. Versus Harvinder Singh &Anr. Law Finder Doc ID #78874 (P&H) wherein it has been held that there was a room on first floor of the demised shop-landlord made no mention this shop in the pleadings cannot be considered concealment of fact as room was not commercial in nature. Moreover, the fact of room on the shop was so evident that it could not be concealed. In the present case, position is the same and as such not mentioning of building is a double storey is not a concealment of facts. Moreover, petitioner admitted in his cross-examination that the property in dispute is a double storey building. Moreover it is for the petitioner/landlord to decide as to what building/property owned by him would be suitable for his personal necessity. The tenant cannot dictate terms to the landlord to use a certain portion of the property to fulfill his necessity. The order passed by the learned Rent Controller is sustainable in the eyes of law because the petitioner/respondent has fully proved on file that his need is

bonafide and the premises is required for his personal use and occupation. Moreover the case law cited by the learned counsel for the respondent before the learned Trial Court as well as this Court is fully applicable in the present case”.

3. After arguing at length and having failed to convince the Court on merits, learned counsel states that he would not press the instant petition provided some reasonable time is granted to vacate the premises. Counsel submits that tenancy relates back to the year 1985 and as such a reasonable time be granted to enable the petitioner/tenant to make alternate arrangements. Counsel further submits that the tenant would clear the arrears, if any, of admitted rent, @ Rs.500/- per month.

4. Mr. Rajdeep Singh Chugh, learned counsel for the caveator/respondents-landlord appears. Caveat stands discharged.

5. Keeping in view the aforesaid facts and circumstances of the case, time is granted to the petitioner/tenant for making alternate arrangements and to vacate the demised premises subject to his furnishing an undertaking on or before 30.11.2021 before the learned Rent Controller, Ludhiana that actual, physical and vacant possession of the demised premises would be handed over to the respondents/landlord by 30.06.2022. The undertaking shall also state that the entire arrears, if any of rent at the rate of Rs.500/- per month up to 30.11.2021 have been cleared and the petitioner/tenant shall continue paying rent @ Rs.500/- per month by the 10th of each calendar month till handing over possession of the shop to the respondent/landlords.

6. Needless to say that any violation of the aforesaid terms shall entitle the landlords to seek eviction forthwith, with police help and

without recourse to any other remedy besides the petitioner/tenant making himself liable for contempt proceedings.

7. Revision petition is dismissed in the aforesaid terms.

8. Since the main revision petition has been disposed of, pending application, if any shall also stand disposed of.

18.11.2021
vandana

(ARUN MONGA)
JUDGE

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