

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

CR-48-2022 (O&M)

Date of Decision: 22.09.2022

Devender Kumar

..... Petitioner

Versus

Santosh Devi and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.S.K. Yadav, Advocate for the petitioner.

HARKESH MANUJA, J.

Present revision petition has been filed at the instance of tenant-petitioner challenging the order dated 18.11.2017 passed by learned Rent Controller, Narnaul as well as order dated 05.12.2019 passed by the Appellate Authority, Narnaul, whereby the eviction has been ordered against him.

The respondents herein filed an eviction petition against the petitioner under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 regarding the tenanted premises i.e. shop. The grounds of eviction pleaded in the eviction petition were non-payment of rent as well as the bona fide necessity of respondent No.2/petitioner No.2. The eviction petition was opposed by the petitioner. Resultantly, on 26.05.2016 learned Rent Controller framed the following issues:-

*“1. Whether respondents are liable to be ejected from the
demised shop on the ground of non-payment of rent?
OPP*

2. *Whether petitioner has no cause of action to file the present petition? OPR (sic)*
3. *Whether the petition of the petitioner is not maintainable? OPR*
4. *Whether the petitioner has not come to the court with clean hands? OPR*
5. *Relief.”*

Learned Rent Controller vide its order dated 18.11.2017 passed eviction order against the petitioner on the ground of personal necessity of the landlord, however, aggrieved by the said order, the petitioner filed first appeal which was dismissed by the Appellate Authority vide its order dated 05.12.2019, resulting into filing of the present revision petition.

The only point argued on behalf of the petitioner is that though the eviction petition was filed on behalf of the respondents on two grounds i.e. non-payment of rent as well as personal necessity, however, learned Rent Controller did not frame any issue regarding the bona fide necessity of the landlord, whereas, the eviction order has been passed only on this ground. Besides this, learned counsel for the petitioner has not made any other submission in the present revision petition.

I have heard learned counsel for the petitioner and gone through the records.

A perusal of the issues framed by learned Rent Controller shows that issue No.1 only relates to the ground of non-payment of

rent, however, from the judgment passed by both the Courts below which contained pleadings, evidence and the submissions made on behalf of both sides i.e. the petitioner as well as respondents, it is apparent that both the sides were fully alive of the entire controversy involved in the ejectment petition. Neither this objection was ever raised by the petitioner at the time of making submissions before the learned Rent Controller; nor even the same was pressed at the time of appeal. However, the petitioner has been contesting the eviction petition on merits throughout the entire proceedings.

Thus, once the petitioner-tenant was fully aware of the relief claimed against him, throughout the pleadings and the evidence of the respondents; but did not choose to press for any specific issue as regards personal necessity, as such, no objection can be entertained at the revisional stage. Therefore, finding no merits in the present revision petition, the same is hereby dismissed.

Pending application(s), if any, shall also stand disposed of.

September 22, 2022
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>