

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1861-2016(O&M)
Date of Order: 06.01.2022

M/S GOYAL SANITARY STORES & ORS

..Petitioners

Versus

CHANDER KANTA TALWAR & ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Puneet Bali, Sr. Advocate with
Mr. Prateek Sodhi, Advocate
for the petitioners.

Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Ajaypal Singh Sandhu, Advocate
for respondents.

ANIL KSHETARPAL, J.

The petitioners herein are tenants on the ground floor of SCO No.27, Sector 18-D, Chandigarh. They assail the correctness of concurrent findings of fact arrived at by the Rent Controller as well the Appellate Authority on the ground of bonafide personal necessity (For settling grandchildren/children) of the landlords (Respondents herein). A pedigree table was drawn in para 2 of the rent petition to disclose the particulars of the children as well as grand-children along with their present status. It was asserted that their children do not own or possess any building nor they have vacated any such building in the urban area of Chandigarh.

The tenants contested the petition while asserting that the

same parties or between the parties under whom they or any of them claim litigating on the same ground has been previously instituted or finally decided by the Court of competent jurisdiction (i.e. no other proceeding on the same matter and same parties has been previously instituted or finally decided by the Court). It was further asserted that the requirement of the landlords is not bonafide as they have let out first floor of the demised premises after getting it vacated. The tenant also alleged that the landlords have concealed the fact that booth No.24, Sector 18-D, Chandigarh, is also let out by landlords.

As already noticed both the authorities have ordered the eviction of the tenants.

This Bench has heard the learned Senior counsels representing the parties and with their able assistance perused the judgments passed by the learned Rent Controller as well as the Appellate Authority along with the record which was requisitioned.

The learned Senior counsel representing the tenants contends that the eviction petition is liable to be dismissed as the landlords have failed to disclose the age and occupation of their children as well as grand-children; there is intentional concealment with regard to possession of the first floor in Sector 19-D, Chandigarh, which is in occupation of one of the landlords Sh. Parveen Talwar.

Per contra, the learned Senior counsel representing the landlords while drawing the attention of the Court to para 2, 3(i) has submitted that not only the age of the children and grand-children has been disclosed but even their present status with respect to their educational qualification have been

mentioned in the petition. In para 2(i), it has been pleaded that the landlords

want their children/grand-children to start their own business therefore, they require not only the entire ground floor of the SCO (tenanted premises) but even six adjoining booths. Sanjeev Talwar while appearing as PW1 has disclosed that first floor of a premises in Sector 19-D, Chandigarh, is in occupation of Sh. Parveen Talwar as a tenant and therefore, there is no concealment.

On a careful reading of the petition filed under Section 13 of East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as “the 1949 Act”), it is evident that in para 2, the landlords have disclosed the names, age and educational qualification as well as present status of their children and grand-children. The landlords have as many as eight grand-children. At the time of filing of the petition in year 2007, two children had already started helping their parents. It has been 14 years. In para 3(i), the landlords have disclosed that none of their children have any non-residential building in their occupation nor they have vacated any such building in the urban area of Chandigarh after the commencement of the Act. The learned Senior counsel for the petitioners has attempted to draw the attention of the Court that such mandatory disclosure is only qua the children and not grand-children. It may be noted here that the assertions made in the petition cannot be read in the manners suggested by the learned Senior counsel representing the tenants. Furthermore, it is evident that the expression 'grand-children' has been made in the context of Smt. Chander Kanta Talwar, who was one of the landlords. This petition has been filed by Smt. Chander Kanta Talwar along with her four sons who are the co-owners. The requirement is of the eight grand-children of the four sons of Smt. Chander Kanta Talwar. Therefore, the argument of the learned Senior counsel cannot be accepted. Once, the

assertion has been made that none of their children own or possess any non-residential building in their occupation nor they have vacated any such building in the urban area of Chandigarh, the requirement of Section 13 of the 1949 Act stands complied with. Hence, there is no substance in the first argument.

The next argument of the learned Senior counsel representing the tenants is with reference to the concealment of the fact of the premises in occupation of Sh. Parveen Talwar (one of the landlord/owner). No doubt, in the petition, the landlords have not disclosed this fact, however, when Sh. Sanjeev Talwar appeared in evidence as PW-1, he specifically stated that Sh. Parveen Talwar is doing his independent business from a tenanted premises on the first floor of Sector 19-D, Chandigarh. Once, the aforesaid fact has been disclosed and both the Courts have examined its effect, it would not be appropriate for the High Court to dismiss the eviction petition on the ground of the concealment. The purpose of plaint, written statement and evidence is to bring on record all the facts. Those facts have already come on record. Furthermore, while filing the written statement, the tenants did not object to the maintainability of the petition on the ground that the premises in occupation of Sh. Parveen Talwar has not been disclosed. Had the tenant taken this objection, the petitioners would have clarified by filing replication or by amendment of the petition.

As regards, the argument of the learned Senior counsel that another property i.e. booth in Sector 18-D, Chandigarh, has been concealed. It may be noted here that while filing the petition, the landlords in para 2(i) have specifically disclosed that they need entire ground floor of shop-cum-office including all the six adjoining booths. Hence, there is no concealment

with this regard as well.

Furthermore, it may be noted that a Five Judge Bench of the Supreme Court in **Hindustan Petroleum Corporation Limited Vs. Dilbahar Singh (2017) 9 SCC 78**, has laid down that the scope of jurisdiction while deciding revision petition is limited and in absence of substantive error in appreciation of evidence or misreading of non-reading of evidence, the Court while deciding a revision petition is not expected to interfere in the concurrent finds of fact.

Keeping in view the aforesaid discussion, the result is inevitable.

Hence, the revision petition is dismissed.

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

January 06th, 2022

(ANIL KSHETARPAL)

Ay

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No