

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

**CR-152-2021 (O&M)
Date of Decision: 11.10.2022**

Harbhajan Singh

..... Petitioner

Versus

Vimal Rai

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.B.S. Bhalla, Advocate
for the petitioner.

HARKESH MANUJA, J.

By way of present revision petition, challenge has been made to the orders dated 12.09.2018 and 07.12.2020 passed by learned Rent Controller as well as learned Appellate Authority, respectively, whereby an eviction petition filed at the instance of respondent/landlord has been allowed, directing the petitioner/tenant to vacate the tenanted premises.

The facts leading to the present revision petition are that the tenanted premises in question which is shop bearing No.656, situated at Chowk Moni, Amritsar, already in possession of petitioner/ tenant (hereinafter referred to as 'tenant') was purchased by the respondent/landlord (hereinafter referred to as 'landlord') vide registered sale deed dated 14.03.2005. Thereafter, an eviction petition was filed on 12.12.2012 against the tenant on the grounds of arrears of rent as well as the tenanted premises having been rendered unfit and unsafe for human habitation. The said eviction petition was withdrawn by the landlord on 24.12.2012.

In the year 2013, a fresh eviction petition was filed by the landlord against the tenant on the grounds of arrears of rent, tenanted premises having been rendered unfit and unsafe for human habitation and also the same being required by the landlord for expansion of his business by reconstructing the same.

The tenant was put to notice. A written statement came to be filed at his instance, *inter-alia*, submitting that once the previous eviction petition was withdrawn, a fresh eviction petition could not have been entertained. It was also submitted that the arrears of rent having been deposited, the said ground did not survive. As regards the bonafide necessity of the landlord, it was submitted that he was already in occupation of sufficient accommodation as he was carrying his business in the adjacent building.

Learned Rent Controller vide its order dated 12.09.2018 allowed the eviction petition filed at the instance of landlord on the ground of his bonafide requirement as regards the expansion of his business. The aforesaid eviction order was upheld by the learned Appellate Authority in an appeal filed at the instance of tenant vide its order dated 07.12.2020. It has been pointed out here that the eviction order was passed on the ground of bonafide necessity of the landlord, however, on account of deposit of arrears of rent, it was recorded that the ground of arrears of rent does not survive. Besides it, both the authorities below also recorded that the landlord failed to prove the tenanted premises to be unfit and unsafe for human habitation.

Challenging the impugned orders dated 12.09.2018 and 07.12.2020 by way of filing the present revision petition, learned counsel for the tenant submits that as the landlord did not file any site plan along with the eviction petition, the same could not have been entertained. It has also been submitted that the landlord having other commercial properties besides the tenanted premises, cannot be held to have proved his bonafide necessity, regarding his requirement of additional accommodation for the purpose of expansion of business. It was also argued that having withdrawn the previous eviction petition on 24.12.2012, the subsequent eviction petition filed in the year 2013, culminating into the passing of the impugned orders, was not maintainable.

I have heard learned counsel for the tenant and gone through the paper-book. I do not find any force in the submissions made on behalf of the tenant. Admittedly, in the present case, no dispute was ever raised by the tenant as regards the identity of the tenanted premises including its dimensions. On the other hand, specific shop number besides its dimensions have been provided in the eviction petition by the landlord. In this view of the matter, landlord could not have been non-suited for want of filing of site plan along with the eviction petition. As regards the plea of withdrawal of the previous eviction petition, it may be recorded here that in the said eviction petition, the landlord never pleaded/ raised the plea of his bonafide requirement and it was only with the change in circumstance, in the year 2013, landlord sought eviction on the said ground, besides

claiming arrears of rent and alleging the building having been rendered unfit and unsafe for human habitation. Though, with the tender of rent, the plea of non-payment of rent was not available to the landlord, besides both the authorities below non-suiting him on account of tenanted premises having become unfit and unsafe for human habitation.

As regards the plea of bonafide necessity of the landlord, I am of the considered view that in the facts and circumstances of the present case, the landlord has been able to establish his personal necessity of additional accommodation for the purpose of expansion of his business already being run in the adjoining shop. The landlord while appearing as AW1, has duly substantiated his bonafide necessity and despite having been cross-examined at length, tenant has not been able to impeach the credibility of said witness as regards the personal necessity. It is a settled proposition that the landlord is the best judge of his personal requirement and the tenant cannot dictate in this regard to say that the landlord is in possession of sufficient area and further that the area in possession of the tenant was not required by the landlord. The idea of expansion of business by the landlord, who is already running his business in the adjoining premises, cannot be by any stretch of imagination held to be a mere desire besides stating it to be an excuse for getting the demised premises vacated. The expansion of business is necessary for furthering the prospects in life of an individual which cannot be curtailed at the instance of a tenant. In the present case, the landlord has a large family to support, including aged

mother, two daughters and a son and thus, has every right at least to give a genuine try to excel in life. On the other hand, the privilege available to the landlord/owner of the demised premises cannot be cut down merely on the asking of tenant who has even failed to produce any evidence to rebut the case set up by the landlord as regards his bonafide need qua expansion of his business. More so, in the present case, the tenant did not even appear as a witness to support his case, perhaps in order to avoid being subjected to cross-examination and rather, chose to appear through his son Ranjit Singh as RW3, being his general power of attorney, which cannot be considered as sufficient rebuttal to the genuine personal need set up by the landlord in the facts and circumstances of the present case.

In addition, it may also be pointed out here that the scope of interference in the revisional jurisdiction under the provisions of Rent Control Acts is also limited as held by the Hon'ble Apex Court in case of ***Hindustan Petroleum Corporation Ltd Vs. Dilbahar Singh***, 2014(9) SCC 78 and relevant part of the same reads as under:-

“We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or

has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

In view of the discussion made hereinabove, I do not find any merit in the present revision petition, consequently, the same is thus dismissed, thereby upholding the eviction order passed against the petitioner-tenant by the authorities below.

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

October 11, 2022
sanjay

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No