

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

358+120

CR-4706-2018 (O&M)

Date of decision: 27.07.2022

Beas Dev

.....Petitioner

Versus

Krishan Lal

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Saksham Mahajan, Advocate
for the petitioner.

Mr. Puneet Jindal, Sr. Advocate with
Mr. Kunal Mittal, Advocate and
Mr. Sahil Khunger, Advocate
for the respondent.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been preferred by the petitioner tenant against the concurrent findings of fact recorded by both the Courts below whereby his eviction from a shop comprised in House No.1447-48 under the name and style of M/s R.S. Sweets Shop, near Deepak Electronic, Haibowal Khurd, Rajpura, Ludhiana (hereinafter referred to as 'demised premises') was ordered on the ground of personal necessity in a petition filed under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short, 'the Act') by the respondent landlord.

The brief facts of the case as pleaded by the landlord while filing the aforementioned petition under Section 13 of the Act, may be noticed as thus: that the respondent was the owner landlord of the demised premises. The petitioner-tenant was inducted as a tenant in the shop in dispute, 25 years prior to the filing of the petition. A rent

agreement was executed between the parties on 01.01.2005 and it was settled that the tenant would pay Rs.2,000/- per month as rent. Besides this, the tenant was also to pay for the electricity charges and all other charges as fixed by the Municipal Corporation, Ludhiana and other departments. The terms and conditions of the tenancy were duly reduced into writing by way of a rent deed. The respondent landlord was in the business of sale of milk and milk products which he was carrying out by going to different houses morning and evening. However, on account of his advance age, he was finding it difficult and hence, he required the demises shop so that he could carry out his business from there. The respondent landlord claimed that he did not own or possess any other property within the municipal limits of Ludhiana which could be used for his aforementioned business, and he had not vacated any such property without sufficient cause after commencement of the Act. He, thus, required the demised premises for his business. In the written statement filed by the tenant petitioner, the tenant did not dispute the ownership of the landlord over the demised premises, he admitted to the landlord-tenant relationship between them and also admitted the rate of rent. However, he alleged that the rent note dated 01.01.2005 was a forged and fabricated document and the petitioner had concealed the factum of the execution of a written rent note between him and the landlord dated 24.12.2004, in the presence two marginal witnesses. It was also submitted that he had been regularly paying the monthly rent of Rs.2,000/- and last rent paid by him was on 10.02.2015 @ Rs.2,500/- per month. It was further submitted that besides this, the tenant had also been paying the licence

fee to the Municipal Corporation, Ludhiana for running his sweets shop and had also paid property tax to the Municipal Corporation, Ludhiana. The bonafide personal necessity of the landlord was thus disputed on the ground that he had various other properties in the same locality including a property measuring 212 sq.yds. another property measuring 15 sq. yds. and yet another property measuring 121 sq. yds. at Haibowal Khurd, Ludhiana as per jamabandi for the year 2004-05. Furthermore, the son of the respondent landlord was running a cycle repairs shop and shoe shop in the same locality in addition to the rear portion of the demised premises having been let out to three different tenants by the landlord.

After appreciating the relevant material and other evidence led, the Rent Controller concluded that the landlord had successfully proved his bona fide necessity qua the demised premises. He thus, ordered eviction of the tenant from the demised premises. The Appellate Authority also upheld the findings of the Rent Controller and dismissed the appeal preferred by the petitioner-tenant. Hence, the instant revision petition.

Learned counsel for the petitioner-tenant has vehemently argued that had the landlord actually been selling milk and milk products, he would have led some evidence in the said regard in the shape of some receipts etc. which admittedly had not been placed on record. It was urged that since the landlord had failed to lead any cogent evidence qua his bonafide necessity, it was apparent that it was a mere fanciful wish of the respondent-landlord to get the demised premises vacated on the pretext of starting his business of milk from

there. Learned counsel further submitted that the Courts below had erred in failing to take notice of the fact that the landlord had not approached the Court with clean hands and in fact there had been material concealment inasmuch as in his rent petition under Section 13 of the Act, he had intentionally not disclosed that he was owner of other properties including a shop which was in close vicinity of the demised premises. It was also submitted that even assuming that the landlord actually wanted to start his business of milk, nothing stopped him from starting his business from the other properties owned by him which were in the same vicinity.

Learned senior counsel for the respondent while opposing the prayer and submissions made by the counsel opposite, submitted that there had been no material concealment as had been alleged by the counsel opposite. It was submitted that the landlord in his cross-examination had admitted that it was the wife of the landlord who was owner of House No.1295/2A situated in Street No.4, Haibowal Khurd, measuring 205 sq. yds. whereas the landlord was owner of just 15 sq. yds. of another property. Besides this, property measuring 121 sq. yds. was in the rear portion of the demised premises, which was in the possession of the other tenants of the landlord including the landlord's son-in-law. Learned senior counsel submitted that the landlord had made a categorical disclosure in his petition that he did not own or possess any other property which could be used by him for the purpose of running his business within the municipal limits of Ludhiana. It was thus urged by the learned senior counsel that all the necessary requirements of Section 13 of the Act stood duly complied with and the

eviction of the petitioner/tenant which had been ordered by both the Courts below, could not be faulted with.

I have heard learned counsel for the parties and perused the relevant material on record.

The submissions made by the learned counsel for the petitioner that there had been material concealment by the respondent/landlord as he had intentionally not disclosed all the properties owned by him in his rent petition, is devoid of any merit and deserves to be rejected. It would be apposite to reproduce Section 13 (3)(a) of the Act which reads as under:-

"13. *Eviction of tenants.* –

XXXX XXXX XXXX

XXXX XXXX XXXX

(3) (a) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession –

(i) in the case of a residential building if –

(a) he requires it for his own occupation;

(b) he is not occupying another residential building in the urban area concerned; and

(c) he has not vacated such a building without sufficient cause after the commencement of this Act, in the said urban area... ..”

A minute reading of the above reproduced provisions make it clear that a landlord seeking eviction of the tenant on the ground of personal necessity should not be in '**occupation**' of any other property within the same urban area. Thus, the requirement of statutory provision is that the landlord must disclose as to whether or not he is occupying any other property of similar nature in the same urban area. The submissions of the learned counsel for the petitioner that the landlord had not disclosed about his possession over property measuring 121 sq. yds. and hence his eviction could not have been

ordered also is bereft of any merit. Admittedly, the property measuring 121 sq. yds. is on the rear portion of the property, which also includes the demised premises. It was submitted by the learned senior counsel for the landlord that this property in the rear portion had been rented out to the tenants and was not in his possession which fact went uncontroverted by the tenant. Rather, the tenant admitted in his written statement that 'the petitioner landlord has let out rear portion of the tenancy premises to 3 different tenants namely Sham Kumar, Lucky and Navneet' which fact was also admitted by the landlord during his cross-examination. The tenant, therefore, has failed to prove that the landlord was occupying any other similar building in the urban area concerned. Furthermore, the need of the landlord to start his milk business in the demised premises comes across as a genuine one and nothing has been brought forth by the tenant to rebut the aforementioned plea of the landlord.

In the circumstances, this Court does not find any reason to interfere with the well reasoned findings recorded by both the Courts below. Accordingly, the instant revision petition being devoid of any merit is dismissed.

27.07.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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