

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

CR No.234 of 2021 (O&M)
Date of decision: 2nd August, 2022

M/s Bombay Kashmir Goods Carriers

... Petitioner

Versus

Charanjit Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. B.D. Sharma, Advocate for the petitioner.

Mr. Rakesh Sobti, Advocate for the caveator/respondent.

MANJARI NEHRU KAUL, J.

On oral request of the learned counsel, the revision is taken up today for final disposal.

Challenge in the present revision petition filed by the petitioner/tenant is to the order dated 20.12.2019 passed by the Appellate Authority, Amritsar whereby the order of ejectment dated 17.01.2019 passed by learned Rent Controller, Amritsar was affirmed.

The respondent/landlord filed an application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as, 'the Act') for ejectment of the petitioner/tenant from the demised premises, which is a godown bearing No.2711/II-40 at Shaheed Bhagat Singh Road, I/s. Sheranwala Gate, Amritsar. The ejectment of the petitioner/tenant from the demised premises was sought on the following grounds:

- (i) Non-payment of rent since April, 2015;
- (ii) That the petitioner/tenant ceased to occupy the demised premises for a continuous period of more than two years;
- (iii) Bona fide personal necessity of respondent/landlord and his family members for starting business of hotel-cum-restaurant in the demised premises as well as the adjoining premises after amalgamating them.

The ground of non-payment of rent was given up as the same was tendered during the proceedings and similarly the ground of the petitioner/tenant ceasing to occupy the demised premises for a continuous period of more than two years was rejected having been not proved.

Though the petitioner/tenant appeared and opposed his ejectment from the demised premises, however, the Rent Controller after appreciating the material and other evidence led, concluded that the landlord had successfully proved his bona fide necessity. 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, inter alia contends that the impugned orders are patently erroneous and contrary to the evidence led by the parties. He submits that the

respondent/landlord had not approached the Rent Controller with clean hands and had failed to plead or even satisfy the necessary ingredients as required under Section 13 of the Act. Furthermore, learned counsel contends that both the Courts below failed to appreciate that the respondent/landlord did not plead nor did he disclose about all the properties owned by him while filing the petition under Section 13 of the Act, and he admitted to the ownership of other properties only during his cross-examination. Therefore, in view of these blatant material concealments, the ejectment of the petitioner had been wrongly ordered. It was still further, argued that the respondent/landlord had produced an incorrect site plan of the demised premises. A prayer was made for setting aside the impugned orders as the bona fide necessity of the respondent/landlord was not genuine but a mere wish and desire for getting the demised premises vacated.

Learned counsel for the respondent/landlord caveator, while opposing the prayer and submissions made by the counsel opposite, argued that the Courts below had arrived at the right conclusion that the demised premises were required by the respondent/landlord for starting a hotel-cum-restaurant. He submitted that there had been no concealment as alleged, and in fact all the necessary ingredients of Section 13 of the Act stood fulfilled.

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

This Court is unable to concur with the submissions made by the learned counsel for the petitioner/tenant that non-disclosure of all the properties owned by the respondent/landlord in his rent petition would amount to material concealment. 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 aforementioned provisions of Section 13 of the Act makes it clear that a landlord seeking eviction of the tenant on grounds of personal necessity should not be in ‘occupation’ of any other property within the same municipal limits. Thus, the requirement of law is that the landlord must disclose as to whether or not he is occupying any other property of similar nature in the same municipal area.

The Legislature in its wisdom has used the expression ‘occupation/occupying’ which has to be distinguished from ‘ownership’. Therefore, it cannot be said that there has been any concealment by the respondent/landlord in not disclosing the properties owned by him because the petitioner/tenant failed to bring to the notice of this Court any material from which it could be shown that the respondent/landlord was in possession of any other premises other than the adjoining shop. The respondent/landlord has sufficiently and satisfactorily explained his bona fide necessity about starting his hotel business after amalgamating the said shop along with the demised premises. Hence, there can be no bar on the landlord to start his new business after converting separate units into one unit which admittedly are adjacent to each other. The requirement of the landlord comes across as being bona fide and genuine as he requires the demised premises for his business, and he cannot certainly be deprived to start his business on his own property.

In the circumstances, this Court finds no merit in the petition and the same is hereby dismissed.

(MANJARI NEHRU KAUL)
JUDGE

August 2, 2022
rps

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