

114 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-7792-CII-2022 in/&
CR-1301-2022
Decided on : 08.07.2022

Dr. Rakesh Sondhi

..... Petitioner

Versus

Ramesh Kumar

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. J.S.Dhaliwal, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

CM-7792-CII-2022

Application is allowed as prayed for and copy of impugned order dated 24.10.2016 passed by Rent Controller, Mukerian is taken on record subject to all just exceptions.

Main case

Instant revision petition has been preferred by the petitioner-landlord to impugn the orders dated 24.10.2016 passed by Rent Controller, Mukerian and 18.11.2021 passed by Addl. District Judge-cum-Appellate Authority, Hoshiarpur vide which his petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred as 'the Act') for the ejectment of the respondent-tenant from the shop in dispute was dismissed.

In the petition filed by the petitioner-landlord under Section 13

of the Act, the petitioner claimed that he was the exclusive owner of the demised shop, which had fallen to his exclusive share in family settlement. His father had rented out the demised shop to the father of the respondent-tenant @ Rs.500/- per month in the year 1996. After the death of his father, the respondent-tenant had inherited the tenancy of demised shop at the rate of Rs.900/- per month. The petitioner-landlord claimed that he was a qualified doctor, who was based and settled at Gurgaon where he had been practicing since the year 1996. However, he now wanted to shift back to his native place at Talwara and set up a clinic in the demised shop. Resultantly, he had asked the respondent-tenant many times to vacate and hand over the demised shop but in vain. Hence, he was left with no other option but to file the rent petition in question.

The respondent-tenant by way of his written statement opposed the averments made by the petitioner-landlord. It was submitted that the petitioner-landlord was permanently settled at Gurgaon for the last many years and was running his clinic there. It was further averred that the petitioner along with his brothers was joint owner of seven shops. It was claimed that the brothers of the petitioner were running a book depot in two of the shops out of seven shops, one shop was in possession of another tenant while one shop was in his possession i.e. demised shop. He asserted that three shops of the petitioner were still lying vacant. It was alleged by the respondent-tenant that the petitioner in fact had no intention of setting up any clinic in the demised shop and it was only because the value of the demised shop had increased over a period of time, he wanted it to be rented

out to some other tenant from whom he could get a higher rent. Hence, it was urged that the petitioner did not require the demised shop on account of any bonafide personal necessity.

On the basis of pleadings and evidence led, both the Courts below concurrently concluded that the petitioner had failed to lead any cogent evidence qua his bonafide personal necessity.

Learned counsel for the petitioner has vehemently argued that both the Courts below gravely erred in not appreciating that since the petitioner was a qualified doctor and wanted to return to his native place at Talwara from Gurgaon, he genuinely required the demised shop so that he could set up his clinic there. He submits that the respondent-tenant could not dictate to the petitioner-landlord as to whether he should be shifting out of Gurgaon or not, to his native place at Talwara to set up his clinic as he and he alone would be the best judge as to how he wanted to pursue his profession.

Heard and perused the material available on record.

No doubt, learned counsel has laid a great deal of stress on the fact that the demised premises was required by the petitioner on account of bonafide personal necessity i.e. for setting up, of his clinic, after shifting from Gurgaon, however, he was unable to dispute that three shops were indeed lying vacant, which too were in the joint ownership of the petitioner and his brothers, like the demised shop. Be that as it may, the ground on which the petitioner is seeking the ejectment of the respondent-tenant from the demised premises does raise a big question mark qua the authenticity of

his pleaded case. As per the petitioner's own admission, he is a practicing doctor in Gurgaon where he has been running his clinic since the year 1990. It is also his own admitted case that he has his own residential house in Gurgaon where he is now permanently settled alongwith his family. Still further, it has also come during his evidence that his children are settled in Gurgaon. In the aforementioned admitted facts, it does not appeal to ordinary prudence as to why the petitioner, who has a flourishing and well settled medical practice, that too in a place like Gurgaon, would want to wind up everything and risk moving to a place like Talwara for setting up his clinic. His claim of bonafide personal necessity does not thus, come across as being convincing much less genuine.

As a sequel to above, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

08.07.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No