

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

**CR-1977-2019 (O&M)**

Date of decision: 25.07.2022

Reserved on 11.07.2022

Kanwaljit Singh

....Petitioner

Versus

Davinder Singh Dhaliwal and others

..Respondents

**CORam: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Akshay Bhan, Sr. Advocate with  
Mr. Santosh Sharma, Advocate for the petitioner

Mr. Chetan Mittal, Sr. Advocate with  
Mr. Kunal Mulwani, Advocate for the respondent

**ANIL KSHETARPAL, J**

1. The petitioner herein is a tenant. He has been ordered to be evicted by the Rent Controller as well as by the Appellate Authority. By filing the revision petition, he assails the correctness of the concurrent orders passed by the Rent Controller as well as the Appellate Authority. The tenanted premises are ground floor and first floor of SCF 47, Phase V, SAS Nagar, Mohali, which were given on lease with effect from 01.05.2007 for a period of two years. The rate of rent was settled at Rs.32,635/- per month for the first year and Rs.34,920/- per month for the second year. The eviction has been sought on the ground of bona fide personal necessity as well as non-payment of rent. The petitioner while contesting the petition asserted that the necessity of the landlords

is not bona fide genuine. He even denied the execution of the lease deed, which was, subsequently, found to be false.

3. The landlords in order to prove their case, examined PW1 Davinder Singh Dhaliwal, PW2 Davinder Kaur, PW3 Bhai Karamjeet Singh, PW4 Kiranjeet Kaur, PW5 DPS Gill, PW6 Jagdish Singh, Record Keeper, PW7 Sarabjeet Singh, Excise and Taxation Inspector, PW8 Kiranjit Kaur and PW9 Davinder Kaur.

4. On the other hand, the tenant, himself, appeared as RW1 and examined RW2 Bajit Kaur, Senior Assistant, GMADA, RW3 Asha Rani, RW4 Veena Rani, RW5 Dr. Kamaljeet Singh and RW6 Sarabjit Singh.

5. Heard learned counsel representing the parties at length and with their able assistance perused the paper book alongwith the record, which was requisitioned. Learned senior counsel representing the parties have also filed synopsis alongwith the gist of their arguments.

6. Learned counsel representing the petitioner contends that the landlords are guilty of concealment of facts, therefore, the rent petition should have been dismissed. He draws the attention of the Court to para 5 of the additional objections in the reply filed to the eviction petition. He submits that the respondents are owners of ground floor and basement portion of SCO No.661, Sector 70, Mohali. They are also the owners of ground floor and basement portion of SCF 38 and 39, Phase XI, Mohali as well as ground floor alongwith basement of SCO No.37, Phase II, Mohali, which are lying vacant. He submits that the landlords have not disclosed these facts and therefore, the eviction petition is liable

to be dismissed. He further contends that during the pendency of the petition, the second floor and the third floor of SCF no.47 fell vacant which have been leased out to Sh. Manu Sharma and another tenant respectively.

7. Per contra, learned counsel representing the landlords while drawing the attention of the Court to the rejoinder, submits that the respondents are co-owners of the aforesaid premises to a limited extent. He submits that there is no concealment of facts as some of the aforesaid properties have been acquired by some of the respondents after the filing of the petition, therefore, there was no occasion to disclose the same in the rent petition. It has been stated that ground floor and basement portion of SCO no.661, Sector 70, Mohali, is not owned by respondent no.1 and 2, whereas respondents no.3, 4 and 5 only have a small fractional share (10% each in the said property). The other co-owners have not consented to get the said property vacated or be used by the respondents for their exclusive use and occupation. Similarly, property no.SCF 38, Phase IX, Mohali, has been purchased by Smt. Kiranjit Kaur to the extent of 50% whereas Smt. Tanni Sidhu and Smt. Davinder Kaur are owners to the extent of 30% and 10% respectively. Respondents no.1, 2 and 4 does not have any right in the said property. Similarly, SCF No.39, Phase IX, Mohali has been purchased by Sh. Jeevan Jyot Singh to the extent of 75% and Smt. Davinder Kaur to the extent of 25%, whereas, respondents no.1, 2,4 and 5 have no right in the said property. So far as SCO no.37, Sector 2, Mohali is concerned, the said property does not have and basement and the property is already

occupied. Only respondent no.4 has got a fractional share of 5% in the said property.

8. He further submits that the rent petition was filed in the year 2009 and respondent no.1 was due to retire within a period of 1 ½ years. He further submits that premises are required for settlement of respondents no.3, 4 and 5. Respondent no.3 is BA, B.Ed whereas respondent no.4 is an Electrical Engineer. Respondent no.5, also, intends to start some business. It has been stated that they jointly want to open a coaching/tutorial centre for the students who intend to take competitive exams. He further submits that the petitioners cannot be forced to occupy the second and third floor of the premises particularly when the requirement is with respect to ground floor and first floor.

9. At the outset, it must be noticed that the scope of jurisdiction while hearing a revision petition is limited in view of the law expounded by a Five Judge Bench of the Supreme Court in **Hindustan Petroleum Corporation Limited vs. Dilbahar Singh' (2014) 9 SCC 78.**

10. It is evident that there is no material concealment of facts by the landlords. The facts, which were alleged to have been concealed, have been explained by the landlords. The landlords have already led their evidence and proved their case. Furthermore, the respondents are not the exclusive owners of the properties which are alleged to have been concealed from the Court. All the four above referred properties are co-owned alongwith others. Hence, the respondents are not exclusive owners of the aforesaid properties.

11. Both the authorities have already dealt with the aforesaid issue in detail and this Bench does not find any material error in appreciation of evidence.

12. The next argument of the learned counsel representing the tenant is with regard to leasing out the second and third floor of the premises. It may be noted here that the landlords have disclosed that they want to open a coaching/tutorial centre and such business can best be run from the ground floor and first floor. The landlords cannot be forced to occupy second and third floor. The requirement of the landlords has been found to be genuine.

13 This Court does not find it appropriate to interfere with the findings of fact, arrived at by both the authorities below in exercise of its revisional jurisdiction, particularly when there is no perversity or material illegality in the aforesaid findings.

14 Consequently, the revision petition is dismissed while granting six months' time to the petitioner to make alternative arrangement in order to relocate his business to some other place.

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

25.07.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

**(ANIL KSHETARPAL)**  
**JUDGE**