

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

CR-3543-2022 (O&M)

Date of decision: 01.09.2022

M/s Bharat Sales Corporation and another

....Petitioners

Versus

Savitri Devi Sachdeva (deceased) through LR's and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Amar Vivek, Advocate for the petitioners

Mr. Amit Jhanji, Sr. Advocate with

Ms. Eliza Gupta and

Ms. Zaheen Kaur, Advocates for the respondents

ANIL KSHETARPAL, J (Oral)

1. The parties shall be referred to by their status in the revision petition.

2. The petitioners herein are tenants, who have been ordered to be evicted on the ground of bonafide personal necessity of the landlords by the Rent Controller as well as by the Appellate Authority. While invoking powers under Section 15 (5) of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the 1949 Act'), the revision petition has been filed assailing the concurrent findings of fact arrived at by the authorities below.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. Learned counsel representing the petitioners, apart from addressing the oral arguments, has also passed on a written note of his

submissions, which reads as under:-

1. Whether expression 'own use ' u / s ' ' Section 13 (3) (a) (ii) would not cover the tenanted firm- Sachdeva and Co ' and not entitle the landlord to secure eviction for the need of a tenanted firm', who admittedly in cross examination was admittedly found to be paying rent to landlord?

2. Whether in case of need of tenanted firm', having been . established in Cross, non-pleading of mandatory ingredients qua firm in terms of Ajit Singh Vs. Jit Ram's case, would be fatal?

3. Whether landlord having not disclosed occupation of first floor ' of same building [u / s 2 a], and later FF falling vacant and being let out on higher rent during pendency, would dis entitle landlord from securing eviction of tenant from basement of same building?

4. Whether the availability of numerous properties and buildings to landlord, which stood concealed in pleading, especially the partition of ground floor for the same usage i.e. 'storage godwon', would show landlord did not have any bonafide need and an artificial scarcity had been created by creating numerous camouflaging entities?"

5. Some facts are required to be noticed. Smt. Savitri Devi Sachdeva, alongwith her two sons, filed a petition under Section 13 of the 1949 Act seeking eviction of the tenants from basement of SCO no.413-14, Sector 35, Chandigarh. It has been asserted that late Sh.Darshan Lal Sachdeva was the owner and landlord of the premises and after his death, the respondents became the co-owners. It has been projected that respondent no.2 and 3 are now married and are running sale counter/retail outlet of Halt/Adidas from the ground floor of SCO-413-14, Sector 35, Chandigarh. Since their business has expanded with the passage of time, they require the basement of the SCO for personal use and occupation, as the space in their possession for storing goods is

not sufficient. The eviction was also sought on the ground that petitioner no.1 and 2 have further sublet the basement to petitioner no.3. The petitioners no.1 and 2 (tenants) have got an independent showroom bearing 361-362 Sector 35-B, Chandigarh where petitioner no.1 is carrying his business by the name of Bharat Agencies while petitioner no.2 is carrying on business by the name of Bharat Distributors. The basement of the aforesaid building, owned and possessed by petitioner no.2, is also lying vacant. They also own a plot bearing no.690, Industrial Area, Chandigarh. It has been projected that the possession of the tenanted premises has been handed over to petitioner no.3 without the consent of the landlords.

6. While contesting, the tenant does not dispute the relationship of landlord and tenant but claims that the landlords have no bonafide requirement. It has been claimed that respondent no.2 and 3 being Directors of Saini Estate and Development Private Limited are owners of SCO-449-450, Sector 35-C, Chandigarh, apart from shop no.9-A, Lower Ground Floor, Elante Mall and plot no.178-178-A, Industrial Area, Chandigarh.

7. As already noticed, both the authorities have allowed the eviction petition after recording a finding that the landlords have successfully proved their bonafide requirement.

8. Let us now analyze the contention of the learned counsel representing the petitioner. The first argument of the learned counsel representing the petitioners does not have substance because on a careful reading of the eviction petition, it is evident that the bonafide

requirement of landlord no.2 and 3 (respondent no.2 and 3 herein) has been projected. Moreover, Sachdeva and Company is a trade name given to the business entity which is being jointly managed by them. It consists of family members. Sh.Munit Sachdeva has appeared as PW1 and proved their bonafide necessity. It has been proved that Sachdeva & Company has a franchise agreement with Addidas/Halt and they are using half of the ground floor as retail outlet whereas the remaining half is being used for storing the goods. In such circumstances, there is no substance in the first argument of the learned counsel representing the petitioner.

9. The second issue is again an off-shoot of the first argument. At the cost of repetition, it may be noted that respondent no.2 and 3 have asserted their bonafide requirement and disclosed all the facts as required under the 1949 Act. Moreover, after the petitioners filed their written statement, in replication, the respondents disclosed the details of all their properties, though not required, as per the provisions of the Act. Both the parties were aware of the various properties owned and possessed by each other and the effect thereof has been examined by both the courts below. The judgment relied upon by the learned counsel in **Ajit Singh vs. Jeet Ram (2008) 9 SCC 699**, does not come to the rescue of the petitioners. It has been laid down that if eviction from premises is sought on the bonafide requirement of the children then, the necessary pleadings under Section 13(3)(a)(ii)(a to c) are required to be pleaded. In the aforesaid case, ultimately, the Supreme Court ordered eviction of the tenant. In the present case, the respondent no.2 and 3

while filing the petition before the Rent Controller have already complied with the aforesaid requirement. In the facts of the present case, there is no necessity as the firm is not a juristic person.

10. Issue no.3 has no relevance for the decision of the present case. Respondent no.2 and 3, while filing the petition, have specifically pleaded that they require the basement of the showroom for storage purposes. The first floor of the premises is of high commercial value and therefore, merely because it was let out during the pendency of the petition, would not bar the landlords from seeking the eviction. As regards issue no.4, it may be noted that both the authorities have examined the aforesaid issue in detail. It has come on record that Saini Estates Developers is the owner of SCO no.449-450, Sector 35-C, Chandigarh. Learned counsel representing the petitioner stresses on the point that respondent no.2 and 3 are its Directors. In the considered view of the Court, unless the petitioners place on file the sufficient material to lift the corporate veil in order to prove that it is a family owned Company, it would not be appropriate to record any finding in the absence of relevant material in support thereof. It may be noted here that Sh.Munit Sachdeva, while appearing in evidence, has admitted that Sachdeva and Company is using basement of SCO-449-450, Sector 35-C, Chandigarh as godown because the tenants are continuing in possession of the tenanted premises. Rather this fact proves that the requirement of the landlords is bonafide. The other buildings/premises are neither nearby nor relevant to the decision of the present case. The shop no.9-A, Lower Ground Floor, Elante Mall and the plot no.178-178-

A, Industrial Area, Phase I, Chandigarh are located at a far off place.

11. The petitioners have also filed an application for permission to lead additional evidence in order to produce a rough layout plan of the space available on different floors of the showroom in question. It may be noted here that the requirement of the respondents is specific with regard to storage of goods and it is for this reason that the landlords, while filing the petition, have claimed that they need the premises for storing their goods.

12. Learned counsel representing the petitioner, in the end, has submitted that half portion on the ground floor is lying vacant. It may be noted here that the learned counsel representing the petitioner, despite being given an opportunity, has failed to substantiate the aforesaid fact. It may be noted here that the deposition of Sh.Munit Sachdeva, PW1, forms a part of the paperbook. This Court has carefully gone through the same. Sh.Munit Sachdeva has not admitted that half portion on ground floor is lying vacant, though he has stated that there is a temporary partition in the ground floor. This statement has to be read in the context of the pleadings in the rent petition wherein the respondents have specifically stated that they are compelled to use half of the portion of the showroom for storage of their goods in the absence of space available in the basement.

13. The scope of interference in exercise of revisional jurisdiction is limited in view of the judgment passed in **Hindustan Petroleum Corporation Limited vs. Dilbahar Singh 2014 (9) SCC 78.**

14. The petitioners have failed to make out a case for

interference.

15. Hence, the revision petition is dismissed.
16. All the pending miscellaneous applications, if any, are also
disposed of.

01.09.2022
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE