

R-770

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

CR-6168-2009 (O&M)

Date of Decision : 02.02.2023

Darshan Singh

....Petitioner

VERSUS

Gurdev Kaur

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Satinder Khanna, Advocate for the petitioner.

None for the respondent.

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ALKA SARIN, J. (Oral)

The present revision petition has been filed challenging the order dated 29.07.2019 whereby the ejectment of the petitioner-tenant has been ordered from the premises in dispute.

The brief facts relevant to the present case are that the respondent-landlord filed a petition under Section 13B of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of the petitioner-tenant from the shop as described in the ejectment petition on the ground that she was a NRI and owner of the shop in dispute for the last more than five years and required the premises in dispute for her personal necessity. The petitioner-tenant appeared and filed an application seeking leave to contest the petition. The application for leave to defend was rejected by the Rent Controller and the petitioner-tenant was directed to vacate and handover the possession to the respondent-landlord. Aggrieved by the said order the

petitioner-tenant filed a revision petition before this Court and vide order dated 10.12.2008 leave to defend was granted. Thereafter, a written statement was filed wherein, inter alia, it was averred that the respondent-landlord had no intention to stay in India and that she is a foreigner and not an Indian National. It was averred that the premises were not required by the respondent-landlord to run her business and that she was neither the owner nor landlord of the premises in dispute.

On the basis of the pleadings of the parties and evidence on the record, it was held that the respondent-landlord was a NRI and had been the owner of the demised premises for a period of more than 5 years and that there existed a relationship of landlord and tenant and that the premises was required by the respondent-landlord. Ejectment of the petitioner-tenant has been ordered from the premises in dispute. Hence, the present revision petition.

Learned counsel for the petitioner-tenant would contend that the petitioner-tenant had raised an objection regarding the respondent-landlord not being the owner of the demised premises, which is a sine-qua-non for filing a petition under Section 13-B of the Rent Act.

Heard.

None has put in appearance on behalf of the respondent-landlord.

The Rent Controller while allowing the ejectment application held as under :

*“I have considered this contention of learned counsel
for the respondent and find no force in it because the*

petitioner is seeking eviction of the respondent from the demised shop, which was let out to the respondent vide rent deed. Moreover, the respondent has failed to prove that the premises in dispute is owned by some person other than the petitioner. The assertion made by the petitioner regarding her ownership stands proved from the perusal of copies of sale deeds and copy of jamabandi placed on record. The respondent further failed to lead any cogent and convincing evidence to rebut the presumption of bonafide need of the petitioner with regard to disputed property, as such, the bonafide need of the petitioner cannot be doubted.”

Learned counsel for the petitioner-tenant has not been able to convince this Court or show any evidence on the record, contrary to the one relied upon by the Rent Controller. There is no sale deed which has been produced to controvert the sale deeds produced by the respondent-landlord to show that she was owner of the demised premises.

In view of the above, I do not find any merit in the present revision petition which is accordingly dismissed. Pending applications, if any, also stand disposed off.

February 02, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO