

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

CR-7602-2018

Date of Decision: August 11, 2023

SANJEEV KUMAR ARORA

..... Petitioner

Versus

SHAKUNTLA AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Himanshu Bansal, Advocate and
Ms. Preeti Bansal, Advocate for petitioner.

Mr. A.K. Goel, Advocate for the respondents.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition, challenge has been laid to judgments dated 08.09.2017 and 16.05.2018 passed by Courts below whereby an eviction petition filed at the instance of petitioner-landlord stands dismissed.

2. Briefly stating, the petitioner-landlord filed an eviction petition against the respondents qua the demised premises pleading bona fide requirement of his brother and bhabhi. The eviction petition was dismissed by the Rent Controller vide judgment dated 08.09.2017 while recording that the petitioner was not competent to invoke the eviction on account of personal requirement of his brother and bhabhi. Aggrieved thereof, the petitioner-landlord filed First Appeal, however, the same was also dismissed, though referring to merits as well to a limited extent.

3. Impugning the aforementioned two judgments, learned counsel for the petitioner submits that in view of the proposition of law laid down by the Hon'ble Supreme Court in case of "**Dwarkaprasad vs**

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Niranjan And Another” 2003(4) SCC, 549, the petitioner-landlord was fully competent to use its property for the benefit of his larger family i.e. brothers and sisters. Relevant Paragraph thereof is reproduced hereunder:-

“.....Even when the plaintiff is sole owner of the property, it is open to him to use the property for the benefit of his larger family which includes his brothers and sisters.....”

- 4. On the other hand, learned counsel representing respondents submits that major married brother, not being dependant upon the petitioner-landlord, eviction could not have been sought for his benefit.
- 5. I have heard learned counsel for the parties and gone through the paper-book.
- 6. Without commenting upon the merits of the controversy and in view of the law laid down by Hon’ble Supreme Court in **Dwarkaprasad’s case (supra)**, I deem it appropriate to set aside impugned judgments and send back the matter to the Rent Controller for its decision on merits on the basis of evidence available on record.
- 7. In view of the aforesaid, the present revision petition is allowed, the impugned judgments dated 08.09.2017 and 16.05.2017 are set aside and matter is sent back to the Rent Controller for its fresh adjudication based on the evidence available. Accordingly, parties/their respective counsels are requested to appear before Rent Controller on 31.08.2023.

11.08.2023 (HARKESH MANUJA)
tejwinder JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No

