

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

(112)

CR-2422-2023 (O&M)

Date of Decision : April 27, 2023

Rajender and another

.. Petitioners

Versus

Rajender Kumar and others

.. Respondents

(112-A)

CR-2517-2023 (O&M)

Rajender and another

.. Petitioners

Versus

Rajender Kumar and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sanjay Mittal, Advocate, for the petitioners.

HARSIMRAN SINGH SETHI J. (ORAL)

CM-7403-CII-2023 in CR-2517-2023

As prayed for, the application is allowed.

CR-2422-2023 and CR-2517-2023

By this common order, two civil revision petitions, the details of which have been given in the heading of the order, are being decided as both the revision petitions involve the same incident.

Respondent No.1-landlord filed an ejectment petition under Section 13 of the Haryana Urban Control of Rent & Eviction Act, 1973 against the petitioners-respondents. While filing the rent petition, number of grounds were taken for ejectment of the petitioners-respondents, who are the tenants, such as non-payment of rent, personal necessity, the building being unfit and unsafe and the fact that the tenant had already acquired other premises where he could have shifted as well as the tenant had already ceased to occupy the building in question including the allegation that the material alteration in the building in question by the tenant was done without the permission of the landlord.

After leading the evidence, the Rent Controller passed an order on 23.01.2019 wherein, it was held that as the tenant had tendered the rent during the pendency of the rent petition, the said ground did not exist any further to be considered for deciding the ejectment petition.

The ground of material alteration was held to be not proved by the Rent Controller but all the other grounds including the fact that landlord needed the premises in question for his personal use and the tenant had already acquired interest in the other properties where he could have shifted and that the premises in question were not being used by the petitioners-tenant were proved before the Rent Controller.

Feeling aggrieved against the judgment of the Rent Controller, both the tenant as well as the landlord filed appeal, which came to be decided by the Appellate Authority vide judgment dated 06.02.2023 by which, the appeal filed by the landlord claiming that material changes were done by the tenant in the premises in question, was accepted and the said

appeal was allowed whereas the appeal filed by the tenant was dismissed.

Hence, the present two civil revision petitions.

Learned counsel for the petitioners argues that the Courts below have not considered the facts which had already come on record and findings have been recorded to prove the grounds for eviction as raised by the landlord even though the facts and evidence on record do not support the said findings, hence, the judgments of the Courts below are perverse to the facts and evidence on record.

On being asked to show the perversity, learned counsel for the petitioners has not been able to point out any such perversity. It may be noticed that to record finding on each ground sought for eviction, due reasons fact and evidence on record has been mentioned. Learned counsel for the petitioners has not been able to rebut the said finding so as to claim that those findings are perverse to the fact or the evidence on record.

Rather, concurrent findings have been recorded by the Courts below that the landlord needs the premises in question for his own use as a family of six persons along with minor children are living in a accommodation of 75 Sq. yards. It has also come on record on the basis of the evidence that the tenant has already acquired other property in the name of his wife where he can easily shift. The most important finding recorded by the Court below is that the petitioners-tenants are not in occupation of the premises in question as there is no electricity connection in the said premises for the last so many years.

Further, it may be noticed that during the hearing, the petitioner himself was present in the Court. On being asked as to whether

the premises in question is being used by him or not as there is no electricity in the premises, the petitioner submitted before this Court that he is not using the premises in question but only the space outside the premises is being used. That being so, even before this Court, it has already come on record that the petitioners are not using the premises in question since long and the same is lying closed and there is no electricity. Further, petitioners could not clarify as to why when the premises are in his possession only the footpath outside the premises is being used by them. Prima facie as the building has also been held to be unsafe for occupation, same is not being used by the tenant.

This Court can only interfere in a revision petition in case, there exist any perversity in respect of the findings recorded by the Courts below keeping in view the evidence and facts which have come on record. In the absence of any perversity, this Court cannot re-appreciate the evidence so as to come on a different conclusion.

Learned counsel for the petitioners has not been able to rebut the said findings in any manner by showing this Court any evidence which has already come on record.

The effort in the present revision petitions is to address the arguments again so as to convince this Court to arrive at a conclusion other than the one arrived by the Courts below, which is not permissible.

Keeping in view the above, the present civil revision petitions are without any merit and are accordingly dismissed.

CM-7133-CII-2023 and CM-7404-CII-2023

As the main civil revision petitions have been dismissed,
present applications also stand dismissed.

April 27, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No