

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR-2591-2023 (O&M)

Reserved on : 01.09.2023
Pronounced on : 12.09.2023

Baldev Singh and othersPetitioners

Versus

Bakshi Ganda Singh Education Society,
Patiala and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by : Mr. G.P.S. Bal, Advocate for the petitioners.

NAMIT KUMAR, J.

CM-7637-CII-2023

Prayer in the instant application filed under Order 22 Rule 4 read with Section 151 CPC is for bringing on record legal representative of respondent No.3-Ranjit Singh (deceased).

For the averments made in the application, the same is allowed and LRs of respondent No.3-Ranjit Singh (deceased) as mentioned in para No.2 of the application is taken on record subject to all just exceptions.

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1. The instant revision petition has been preferred by the petitioners impugning the order dated 14.10.2021 passed in Rent Petition No.20 of 2016 tilted as 'Bakshi Ganda Singh Educational Society, Patiala and another Vs. Baldev Singh and others' whereby learned Rent Controller, Patiala has passed the ejectment order and

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directed the petitioners to hand over the vacant possession of demised premises to the respondents and order dated 15.03.2023 passed by learned Appellate Authority, Patiala in Rent Appeal No.22 of 2021 whereby an appeal filed by the petitioners against order dated 14.10.2021 has been dismissed.

2. The matter was heard by the Coordinate Bench of this Court on 29.05.2023 and on the said date the following order was passed :-

“After arguing for some time and realizing that this Court is not inclined to interfere in the impugned order, learned counsel for the petitioners submits that the matter may be referred to Mediation and Conciliation Center of this Court and the parties are directed to appear before the Mediator on 05.07.2023.

Adjourned to 02.08.2023, for awaiting the report of the Mediator.

Reference of matter for mediation does not imply that any stay on the impugned order has been granted by this Court.”

3. Thereafter, the matter was referred to the Mediation and Conciliation Center of this Court and report dated 28.07.2023 of the Mediator has been received wherein it has been stated that despite best efforts, parties could not arrive at an amicable settlement.

4. Briefly stated the facts relevant for disposal of the present petition are that respondent No.1 is a registered society duly registered with the Registrar of Firms and Societies, Punjab and it is a charitable institution. Respondent No.2 is the President of respondent No.1. The

demised premises was rented out to the petitioners by respondent No.1-Society @ Rs.200/- per month vide rent note dated 13.03.1974. Respondent No.1-Society is running a school under the name and style of Mohinder Kanya Maha Vidayalya, which is duly recognized school by Education Department, Punjab and is a High School of girls. The only entrance to the school is through the rasta in exclusive use of respondent No.1 which is on western side of the demised premises. The respondent-Society has filed the ejectment petition on the ground that they need the demised premises for personal use and occupation as they intend to construct library, toilets and school to provide education to the poor and weak students, under Punjab Open Education Policy for which the respondent No.1-Society has already deposited Rs.2,000/- vide receipt dated 06.01.2016 in the name of the school for requisite permission with Punjab School Education Board, SAS Nagar, Mohali. In the petition it has also been alleged that now, only petitioner No.1 is in exclusive possession of the demised premises and is running his furniture business under the name and style of Good Luck Furniture House. Petitioners No.2 and 3 (LRs of late Babu Singh) running their business near Shiv Mandir, Dakala, Patiala Road, Dakala and petitioner No.4 is running his furniture business at Bhadson Road, Patiala since long. Upon notice, petitioners appeared and filed written reply contesting the ejectment petition. It is denied that respondent No.1 is a registered society or a charitable institution or that respondent No.2 is President of respondent No.1-Society. It is submitted that vide agreement dated 13.03.1974 plot having dimensions of 25 feet towards

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main road, 45 feet on one side and 63 feet on other side, was taken on rent by the petitioners from respondent No.1-Society through its Secretary Joginder Singh @ Rs.200/- per month and thereafter, with permission of the society, construction was raised by respondents way back in the year 1977 and the petitioners are running the business of furniture in the demised property. It is submitted that the petitioners are running the business in the property in question. However, the business has been extended by the petitioners and only petitioner No.2-Davinder Singh running the business at Dakala. The respondent-Society has nothing to do with the demised premises. They only wants to destroy and ruin the business of the petitioners by getting them ousted from the property in question. After hearing the parties, learned Rent Controller, Ferozepur vide order dated 14.10.2021 allowed the ejectment petition filed by the respondent-Society on the ground of personal necessity and directed the petitioners/tenants to vacate the demised premises and handover the vacant possession of the demised premises to the respondent-Society within a period of 03 months. The said order was challenged by the petitioners/tenants before the Appellate Authority, Patiala by filing an appeal which was dismissed vide judgment dated 15.03.2023 by recording the following findings :-

“26. As a result of above discussion, this Authority is of the considered opinion that the findings returned by the learned Rent Controller vide impugned judgment dated 14.10.2021 are very exhaustive and were based on proper appreciation of the evidence on record. No ground, whatsoever, is made out to interfere with the findings returned by the learned Rent Controller given vide impugned judgment and the same are hereby affirmed and

the appeal is found to be bereft of substance and is dismissed with costs.

27. Counsel fee is assessed as Rs.2200/- each. Memo of costs drawn accordingly. Trial Court record be returned and appeal file be consigned to the record room.”

5. Aggrieved against the order dated 15.03.2023 passed by learned Appellate Authority, Patiala and order dated 14.10.2021 passed by learned Rent Controller, Patiala, the petitioners/tenants have preferred the instant revision petition.

6. Learned counsel for the petitioners contends that the need of the respondent-Society is not bonafide as the respondent-Society have got vacated other properties also. He further submits that the construction over the area has been made by the petitioners as they were only assign the plot, however no finding has been returned by the Courts below on the said issue. No compensation/amount has been quantified in lieu of construction done by them. The Appellate Authority, Patiala vide order dated 15.03.2023 has dismissed the appeal filed by the petitioners without appreciating the evidence on record and also without considering the facts and circumstances of the present case. Therefore, the present petition may be allowed and the impugned orders may be set aside.

7. I have heard learned counsel for the petitioners and perused the relevant documents.

8. In the present case, the demised premises required by the respondent-Society for their own use and occupation, as the respondent-Society intended to provide education to weaker students, who could

not pass out the 11th and 12th classes, under the Punjab Open School Education Policy by opening school and the society has already deposited Rs.2000/- vide receipt dated 06.01.2016 in the name of the school for requisite permission with Punjab School Education Board, SAS Nagar, Mohali. Further, they wanted to construct and provide independent library for the students in their interest to promote education and to construct new toilets, wash rooms for school students, staffs and visitors. The Coordinate Bench of this Court, while discussing the issue of bona fide personal necessity, in its judgment passed in ***Surinder Chopra Vs. Harbans Kaur : 2008(4) Civil Court Cases 38*** has observed as under :-

“16. A plea for ejectment on the ground of a bona fide personal necessity is available to a landlord/landlady under Section 13(3)(a)(i)(a) of the Act, provided the landlord/landlady establishes that he/she "requires" the tenanted premises for his/her own occupation. The word "requires" appearing in Section 13 has been interpreted by judicial precedents to connote a sincerity of desire, a genuineness of purpose and a need as distinguished from a mere whim or a desire. The requirement should be natural, real, honest and should be asserted in good faith, devoid of an element of deceit, fraud or mala fide. A landlord's/landlady's perception of the his/her personal necessity, namely the nature and the extent thereof, the premises to be occupied, are generally, in the absence of any evidence to the contrary, accepted as bonafide. The onus to establish otherwise lies on the tenant. In the absence of any cogent evidence or material to doubt the bona fides of the landlord/landlady, a Court would accept

the plea of the landlord/landlady. A Court cannot impose its perception of the state-of-affairs and the parameters of the necessity so pleaded.”

9. The Coordinate Bench of this Court in its judgment passed in ***Ram Paul Vs. Vijay Kumar and others : 2013(4) Civil Court Cases 581*** has held as under :-

“It is well settled that a landlord is the best judge of his requirements. The mere fact that an adjoining shop of a small size is lying vacant, cannot be considered to disentitle the respondent-landlord for the relief sought by him; and in case the landlord considers the existing accommodation insufficient and he requires a better and more spacious accommodation, such a need has to be seen from the angle of the landlord and not from the view point of tenant.”

10. There is no evidence or material to doubt the bonafide of the respondent-society that they do not requires the demised premises for personal use and occupation. Therefore, the argument raised by learned counsel for the petitioners that the need of the respondent-Society is not bonafide has been rightly rejected by the Courts below.

11. So far as argument raised by learned counsel for the petitioners that the construction over the area has been made by the petitioners as they were only assign the plot is concerned, a perusal of issues framed by the Rent Controller, Patiala would show that no such issue was ever framed with regard to the construction raised by the petitioners and the said point has also not been argued by the petitioners before the Courts below and the same is being taken for the first time in

the present revision petition which needs to be rejected as it is not permissible for the petitioners to raise the said issue before this Court as the same has come up before this Court on the revisional jurisdiction. This Court will not go into the factual aspect which have not even been taken before the Courts below.

12. In view of above, there is no illegality or infirmity in the impugned order dated 15.03.2023 passed by learned Appellate Authority, Patiala and order dated 14.10.2021 passed by learned Rent Controller, Patiala and needs no interference.

13. Finding no merit in the instant revision petition, the same is consequently, dismissed.

12.09.2023
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No