

CR-2643-2022 (O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-2643-2022 (O&M)

Date of Decision: August 02, 2023

Tarawanti (since deceased) through LRs

...Petitioners

Versus

Smt. Nawal Kishori Vats (since deceased) through LRs and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. S.S. Dinarpur, Advocate,
for the petitioners.

SANJAY VASHISTH, J.

1. By way of present revision petition, petitioners have impugned ejectment order dated 29.03.2019, passed by learned Rent Controller, Ambala, in Rent Petition No. 1791 of 2013, as well as judgment dated 13.05.2022, passed by the learned Appellate Authority, Ambala; whereby appeal filed by the petitioners against the ejectment order, was dismissed.

Petitioners herein are the Legal Representatives of Smt. Tarawanti, who faced the ejectment petition as respondents (hereafter to be referred as 'tenants'), under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act No. 11 of 1973. The said ejectment petition was instituted on 12.02.2013, by (1) Smt. Naval Kishori Vats wife of Rakesh Vats, and (2) Balkesh Vats son of Rakesh Vats (hereafter to be referred as 'landlords').

2. Landlords instituted the rent petition seeking eviction of the

tenants from demised premises, i.e. Shop No. 4168-69 (at some places in the impugned ejectment order and judgment passed by learned Courts below, it is mentioned as ‘1468-69’), D.C. Road, Sadar Bazar, Ambala Cantt., on the ground of ‘*own bonafide personal use and occupation*’. It was claimed that tenants are running a cloth shop in the demised premises, whereas landlord No. 2 – Balkesh Vats is running a coaching institute alongwith his wife, under the name and style of “Saraswati Open School”, in a rented premises, bearing No. 4466/67, D.C. Road, Sadar Bazar, Ambala Cantt., which is just adjacent to the demised premises. He wanted to open a Computer Institute in the demised premises, to extend his institute.

3. After pleadings of the parties, learned Rent Controller, vide order dated 05.11.2015, framed following five issues:-

- “1. *Whether the respondent is liable to be ejected from the shop in dispute on the ground of personal necessity etc. as alleged? OPP.*
2. *Whether the present application is not maintainable in the present form? OPR.*
3. *Whether the petitioners have concealed and suppressed the material facts from the court? OPR.*
4. *Whether the application is bad for mis-joinder and non-joinder of necessary parties? OPR.*
5. *Relief.”*

4. While dealing with Issue Nos. 1 and 2, and after going through the evidence available on record, learned Rent Controller discussed the fact that landlords are running a coaching institute under the name and style of “Saraswati Open School”, in a rented premises, bearing No. 4466/67, since the year 1967, which is just adjacent to the demised premises, whereas the tenants

are enjoying the demised shop at a meagre rent. It is also held that the landlords are in possession of the first and second floors of the demised shop, which are being used by them for their residential purposes. On the contrary, tenants are running their shop, dealing in the business of clothes, on the ground floor of the demised premises.

5. To defeat the arguments raised by the landlords, a futile attempt has been made by the tenants by submitting that the premises where ‘Saraswati Open School’ is run by landlord No. 2, is actually owned by the landlords and, therefore, ejectment petition has not been filed by disclosing all the required facts in regard to the properties owned by the landlords. On the said ground, a lengthy cross-examination has been done by the tenants, but nothing came out to support their submission. Rather, a categorical denial has come across in the cross-examination of PW1 – Balkesh Vats, wherein ownership of the property where Saraswati Open School is being run is denied, and a fact emerged that said property is taken by the landlords on rental basis.

6. Realising the fact that despite being owner of the demised premises, landlords are forced to pay rent for running their institute in the property owned by somebody else, learned Rent Controller, Ambala, allowed the rent petition and passed the ejectment order dated 29.03.2019, directing the tenants to hand over vacant possession of the demised premises to the landlords within three months from the date of order.

7. Subsequently, appeal preferred by the tenants against the ejectment order, was dismissed by the Appellate Authority, Ambala, vide

judgment dated 13.05.2022, by upholding the findings recorded by the learned Rent Controller, Ambala.

8. Mr. S.S. Dinarpur, learned counsel for the tenants (petitioners herein), also tried to project a situation that as per cross-examination of PW-1 – Balkesh Vats, recorded on 10.01.2018, there is a clear admission that for the last 15 years, no rent is being paid by the landlords for the property where Saraswati Open School is run by them.

9. Even if said part is taken to be correct, it cannot be presumed that the landlords are owners of the said property. Had there been any document for showing ownership in the name of the landlords qua that property, certainly the tenants would have traced out and produced the evidence before learned Rent Controller. Thus, in the absence of any such fact established on record, it became imperative for the Courts below to believe the pleadings raised in the ejectment petition, by allowing eviction of the tenants from the demised premises.

10. In paragraph No. 15 of the ejectment order passed by the learned Rent Controller, the conduct of the tenants has been discussed. Bhupinder Singh Thukral, one of the legal representatives of tenant/respondent – Tarawanti appeared as RW-1, for adducing evidence on behalf of the tenants. In the cross-examination, it is admitted by him that he is sole proprietor of the shop, in the name and style of “Thukral Brothers”. There is another admission that his mother is having another property No. 6182 at Idgah Road, Ambala Cantt., and on the ground floor they are having electric goods showroom, in the

name and style of 'Thukral Electronics', which is run by his son Jaspreet Singh for the last 2 – 2½ years. Said building is three storey building, having an area of 25' x 45', and on first floor, his son is residing. Said building is admitted to be near to the Government College. However, on the other hand, this witness showed ignorance about any building owned and possessed by landlord/petitioner, except the tenanted premises.

11. Thus, the learned Rent Controller has held that the landlords are running their coaching institute in adjacent rented shop, having no other property or accommodation more suitable than the tenanted premises for expanding their coaching institute. Findings recorded by the learned Rent Controller were maintained by the learned Appellate Authority as well. The view point, expressed in paragraph No. 19 of the judgment passed by learned Appellate Authority, says as under:-

“19. In the instant case, the petitioners-landlord have come with a plea that petitioner No. 2 is at present running a Coaching Institute alongwith his wife in a rented premises bearing No. 4466/67, D.C. Road, Sadar Bazar, Ambala Cantt under the name and style of Saraswati Open School, which is just adjacent to the demised premises. The petitioner No. 2 wants to open Computer Institute in the demised premises to extend his institute, which is the demand of the time and students. Petitioner No. 2 is a qualified in Computer Science. The said institute is presently being run on the 1st floor portion of property No. 4466-67 D.C. Road, Sadar Bazar, Ambala Cantt and the accommodation in the same is very much insufficient and is on rent with the petitioners and there is no scope of extension of computer classes in the same. Petitioner No. 2 will extend his institute for computers studies in the demised premises after getting the same vacated from the respondent-tenant. The premises is on the ground floor and is just near to the institute of petitioner No. 2. The petitioners are residing on the 1st floor of this very building and the demised premises is very much suitable for their requirement and as such

the petitioners require the demised premises for their bonafide use and occupation. It has been held in catina judgments that landlord is the best judge of his need and tenant cannot dictate him that which place or which shop is suitable for expansion of their coaching institute and open computer institute. Therefore, the submission of the petitioners-landlord that they require the disputed shop for the purpose of expansion of their coaching institute and open computer institute can definitely be determined as bonafide personal necessity and same cannot be termed as mere wish and desire. The respondent cannot curtail their right by taking a plea of hardship that petitioners are having many properties in Ambala, which has not been proved by leading cogent and convincing evidence.”

12. After hearing the learned counsel thoroughly and examining the record available before this Court, I find that the ejectment petition has been allowed after giving deep thought with analytical approach to the evidence led by the parties. Therefore, there is no substance, more so any legal issue, to interfere with the well reasoned order of ejectment passed by learned Rent Controller or the judgment passed by learned Appellate Authority. Thus, the findings recorded by learned Rent Controller as well as learned Appellate Authority, are hereby upheld.

13. Finding no substance in the defence taken, as addressed before this Court, present revision petition is hereby dismissed.

14. Pending civil miscellaneous application also stands disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

August 02, 2023

Pkapoor

Whether Speaking/Reasoned: ✓YES/NO

Whether Reportable: ✓YES/NO