

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

110

CR No.3547 of 2023

Date of decision: 02.06.2023

Dayanand Shah

....Petitioner

V/s

Sheela Devi and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Charanpuneet Singh, Advocate, for the petitioner.

VIKAS SURI, J.(Oral)

1. The present revision petition has been preferred against the concurrent findings, whereby eviction of the petitioner was ordered on the ground of personal necessity of the landlord.
2. The facts in brief are that the landlord had purchased the demised premises vide sale deed dated 20.05.2010 and the same was rented out by her husband to the petitioner-tenant at a monthly rent of Rs.5000/- per month in the month of April 2012. The respondent-tenant paid rent up to July 2013 to the husband of the petitioner, thereafter no rent was paid. Accordingly, petition seeking eviction of the petitioner-tenant on the ground of non-payment of rent and personal necessity was instituted.
3. It was pleaded that instead of vacating the premises, the tenant instituted a suit for permanent injunction on the plea that the husband of Sheela Devi, i.e. the owner of the demised premises, tried to dispossess him forcibly. It was pleaded that at the time when the demised premises were rented out to the petitioner-tenant, the children of the owner Sheela Devi and her husband Naval

Singh were unmarried and they all were living with the petitioner at 36/7, Nala Road, New Shivaji Nagar, Ludhiana and with the passage of time, the said children have since grown up and have been married and one of them has started living separately in rented accommodation.

4. On notice, the eviction petition was contested and a plea was set up by the petitioner-tenant that the eviction petition is a counter blast to the civil suit filed by the tenant against the owner in which an interim injunction has been granted in favour of the tenant by the Court. The deed of rent was denied and on the contrary rent was pleaded to be Rs.500/- per month. It was also stated that the tenant had paid rent up to 15.02.2016, but no receipts in that regard were issued.

5. On the pleadings, the following issues and additional issues were framed:-

- “1. Whether the respondent has not paid rent since after July, 2013 inspite of repeated requests? OPP
2. Whether the premises in question were rented out to the respondent in the month of April, 2012 and the same is required for the personal necessity of the petitioner? OPP
3. Whether the present petition is not maintainable? OPR
4. Whether the present petition is counter blast to the civil suit/OPR
5. Whether the petitioner has concealed the material facts from the Court? OPR
6. Relief.
- 2A. Whether the respondent is not paid rent since July, 2013 along with interest @ 10% per annum?OPP
- 2B. Whether the respondent is responsible for tendering of rent w.e.f. July, 2013 along with interest @ 6% per annum? OPR”

6. The parties led their respective evidence. It may be noticed that no

document has been relied upon by the tenant in his evidence and the petition seeking his eviction was sought to be opposed on oral testimony alone.

7. The Rent Controller assessed the rent, which was paid and accepted under protest and as such, the ground of eviction for non-payment of rent was rendered infructuous. The Rent Controller further assessed the rate of rent @ Rs.500/- per month from July 2013 vide order dated 24.01.2017. The said order was not challenged and has since merged in the final order dated 21.02.2018 passed by the Rent Controller, whereby eviction of the tenant has been ordered on the ground of personal necessity. It was also noticed that the tenant in his cross-examination admitted that the owner/landlord of the demised premises along with her son and his children are residing separately in a rented accommodation. It has also not been denied that Sheela Devi and her husband were not having any other property except the demises premises.

8. Taking into consideration the evidence in its entirety, eviction of the petitioner-tenant was ordered by the learned Rent Controller vide order dated 21.02.2018.

9. An appeal was carried to the Appellate Authority by the petitioner-tenant, which after due contest also met the same fate. It is well settled that the tenant cannot dictate terms to the landlord and the landlord is best judge as regards the suitability and requirement of the premises.

10. Learned counsel for the petitioner has sought to raise an argument before this Court that the owner/landlord was residing on rent when the premises in question was rented out to the tenant.

11. The aforesaid plea lacks merits. It has been noticed by the Rent Controller that the family circumstances of the owner have changed since the time

when the demised premises was rented out. The sons of the owner/landlord have since been married and they with their respective wives are living separately on rent.

12. Keeping in view the settled law that tenant cannot dictate terms to the landlord, who is the best judge of his requirement, the aforesaid plea is not tenable and is, thus, rejected.

13. Learned counsel for the petitioner has further sought to stress upon this Court as an argument in despair that the landlord is seeking eviction of the petitioner only to sell the property.

14. However, learned counsel for the petitioner is not in a position to refer to any pleading in that regard, if taken in the written statement filed before the Rent Controller or any such ground taken or argument raised before the Appellate Authority.

15. Thus, such a plea cannot be permitted to be introduced for the first time before this Court in revisional jurisdiction.

16. In view of the above discussion, this Court finds no merits in the present petition and the same stands dismissed with costs.

(VIKAS SURI)
JUDGE

June 02, 2023
vcgarg

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No