

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5035-2023 (O&M)
Date of Decision:-01.09.2023

MOHHAMED ILYAS

... Petitioner(s)

Versus

MOHAMMED NAZIR

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Jai Bhagwan, Advocate
for the petitioner.

Mr. K.B. Raheja, Advocate
for the caveator/respondent.

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KARAMJIT SINGH, J. (Oral)

1. This order will dispose of the present civil revision petition filed by petitioner/tenant Mohhamed Ilyas for setting aside the eviction order dated 31.3.2016 passed by the Court of Rent Controller, Malerkotla, whereby the rent petition filed by respondent/landlord under Section 13 of the East Punjab Urban Rent Restrictions Act, 1949 (in short the Act) was accepted and judgment dated 16.3.2023 passed by the Appellate Authority, Sangrur whereby the appeal filed by petitioner against the eviction order dated 31.3.2016 has been dismissed.
2. The brief facts of the case are that the respondent filed an ejectment petition under the Act against the petitioner seeking his eviction from shop in question on the grounds of non-payment of rent, house tax and

personal necessity as the rented premises is required by the respondent to settle his son, who has completed his studies.

3. The rent petition has contested by the petitioner, who filed written reply wherein the relationship of landlord and tenant between the parties was admitted but the other averments of the rent petition were denied.
4. The learned Rent Controller framed the following issues:-
 - i. Whether the respondent is liable to pay house tax? OPA
 - ii. Whether the petitioner requires the demised premises for his personal requirement? OPA
 - iii. Whether the petition is not maintainable in the present form? OPR
 - iv. Whether the respondent No.1 is liable to be ejected from the demised premise? OPA
 - v. Relief.
5. In order to prove his case, landlord himself appeared as AW-1 and also examined AW-2 Charanjit Singh draftsman and AW-3 Mohd. Musthaq.
6. On the other hand, tenant himself appeared as RW-2 and also examined RW-1 Mohd. Parvez Bhatti, photographer; RW-3 Iqbal Singh; RW-4 Mehmood; RW-5 Abdul Shakoor and RW-6 Vishavjyoti Attraya Notary Advocate and also produced receipt Ex.R16 regarding payment of house tax.
7. After hearing both the parties, the learned Rent Controller held that the ground of personal necessity stands proved and consequently the rent petition was allowed vide order dated 31.3.2016. The appeal filed by

the petitioner against the said eviction order was also dismissed by the Appellate Authority vide judgment dated 16.3.2023. Both the Courts below held that the shop in question is required by the respondent to start the business of his son who has completed his studies and is unemployed.

8. Learned counsel for the petitioner argues that respondent is having 3 other shops apart from the shop in dispute and the said shops could be used by the respondent to start the business of his son. It is further submitted that son of respondent is already running general store in Teliya Bazar Malerkotla and as such the necessity pleaded by the respondent is not honest and it is not need of the respondent and rather it is a greed. The counsel for the appellant further submits that the findings recorded by the Courts below are perverse to the facts and evidence on record.
9. The counsel for the respondent/caveator while supporting the eviction order and the judgment passed by the Appellate Authority, submits that the requirement spelt out by the respondent is a bona fide requirement, as the shop in question is required by the respondent to start the business of his son, who has already completed his studies and is not doing any job.
10. The Hon'ble Supreme Court in **Prativa Devi vs. T.V. Krishanan (1996)5 SCC 353** has held that the landlord is the best judge of his requirement and Courts have no concern to dictate to the landlord as to how and in what manner he should live. Bona fide personal need was a question of fact and should not be normally interfered with.

11. It is also settled position of law that while considering the bona fide need of the landlord, when a landlord says that he needs the premises for his own use, he has to prove it, but there is no warrant for presuming that his need is not bona fide.
12. There is also no dispute with regard to proposition that the landlord can now seek eviction on the ground of bona fide requirement of rented premises for the purposes of the business requirement of the son or any other member of the family dependent on him. In the instant case, it stands proved that Mohd. Mustaq was dependent on his father i.e. respondent and said Mohd. Mustaq proved the case of the respondent while appearing in the witness box as AW-3.
13. In the light of the aforesaid settled position of law, this Court asked the counsel for the appellant as to how the impugned orders are illegal or perverse, however the learned counsel for the petitioner failed to point out any illegality or perversity in the impugned orders. Thus the concurrent findings recorded by the Courts below are hereby affirmed.
14. Faced with this situation, the counsel for the petitioner made prayer that the petitioner be permitted to retain the possession of the rented shop in question for a period of 1 year and the counsel for the petitioner further undertakes that the shop in question will be vacated on or before 31.08.2024.
15. The counsel for the respondent is having no objection if period of 1 year is given to the petitioner to vacate the shop in question. However, at the same time, the counsel for the respondent made prayer that the

petitioner is liable to pay rent/mesne profits at the rate of ₹1,800/- per month as has been already awarded by the 1st Appellate Court. The counsel for respondent has agreed to pay mesne profits at the said rate of ₹1,800/- per month till the vacation of shop in question.

16. In view of the above, time is granted to the petitioner to vacate the shop in question till 31.8.2024 subject to following conditions:-
- i. The petitioner shall file an undertaking affidavit before the Executing Court within next 2 months that he would vacate the shop in question by 31st August, 2024.
 - ii. The petitioner shall continue to pay the rent / mesne profit at the rate of ₹1,800/- per month from 1.10.2023 till 31.08.2024 on or before 10th day of succeeding month.
 - iii. If the petitioner failed to adhere to any of the conditions referred above, the respondent is entitled to execute the eviction order dated 31.3.2016 without reference to time granted by the Court to vacate the premises in question, in accordance with law.
17. With the above directions, the present revision petition is dismissed without any order as to costs.
18. As a sequel all the pending miscellaneous applications shall stand closed.

01.09.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No