

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

Civil Revision No.5278 of 2023 (O&M)

Date of Decision: 22.11.2023

Kamal Kumar Bansal @ Kamal Kishore

...Petitioner

Versus

Kewal Krishan Bansal & Anr.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Umesh Aggarwal, Advocate
for the petitioner.**

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner/ tenant against the order dated 22.08.2023 (Annexure P-5) whereby the application (Annexure P-3) filed by the petitioner to permit Civil Engineer along with photographer to inspect the entire building and then to submit detailed report along with site plan and photographs of the said building of which the demised premises forms part, has been dismissed by the Court of Rent Controller, Amritsar.

2. The brief facts of the case are that respondents/ landlords have filed eviction petition under Section 13 of East Punjab Urban Rent Restriction Act, 1914 against the petitioner in the Court of Rent Controller, Amritsar on the ground of personal necessity. The rent petition is being contested by the petitioner and after framing of issues, it was fixed for recording of evidence and in the meantime, the petitioner filed an application (Annexure P-3) and the same was resisted by the respondents and finally the said application was dismissed by the Rent Controller vide impugned order (Annexure P-5). Being aggrieved, the petitioner has filed the present revision petition.

3. The counsel for the petitioner while assailing the impugned order, contends that in case the present application is allowed, it is not going to cause any prejudice to the respondents and rather the report of any such Civil Engineer coupled with photographs and site plan would help the Rent Controller to adjudicate the subject matter in dispute in a proper and judicious manner. The counsel for the petitioner made prayer that the impugned order being illegal deserves to be set aside. In support of his contentions, the counsel for the petitioner has placed reliance on the decision of this Court in CR-8450 of 2018 (**Baldev Raj Vs. Deepak Bhandari & Ors.**), decided on 14.12.2018.

4. I have considered the submissions made by counsel for the petitioner.

5. In his application (Annexure P-3) the petitioner has pleaded that the respondents are in possession of sufficient space required for their personal need and that the demised premises is a part of multi storied building and the entire building, except demised premises which is a small shop, is being used and utilized by the respondents for running their business. That the total area of entire building is 200 sq. yards out of which area of tenanted premises is just 7-10 sq. yards. That in order to establish this, the petitioner has sought permission that one Civil Engineer accompanied by photographer and petitioner be permitted to inspect the entire building and then to submit detailed report along with its site plan and photographs.

6. The application (Annexure P-3) was dismissed by the Rent Controller vide impugned order while relying upon the decision of this Court in CR-8076 of 2019 (**Parkash Kaur (deceased) through LRs. Vs. Bhupender Singh & Ors.**) decided on 11.07.2022.

7. Petitioner-tenant is always at liberty to file his own site plan at the time of adducing evidence in order to establish his defence. The permission sought by the petitioner to allow Civil Engineer to inspect the spot and then to submit his report will amount to collection of evidence by the Court on behalf of the petitioner. Further, the eviction of the petitioner is not sought on the ground that the demised premises has become non habitable or that certain material additions and alterations have been carried out in the demised premises by the petitioner without the consent of the landlord. In the given circumstances, the petitioner cannot be allowed to create evidence through site inspection report prayed to be submitted by some Civil Engineer after inspecting the spot along with photographer.

8. Consequently, the present petition is hereby dismissed being devoid of merits, without expressing any opinion on the merits of the case.

22.11.2023

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(KARAMJIT SINGH)
JUDGE

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