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

**CR-4680-2022 (O&M)**

Date of decision : 30.01.2023

Jagdish Parshad (since deceased) through LRs

... Petitioner

Versus

Rakesh Kumar Yadav

.. Respondent

**CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present:- Ms. Savita Bhandari, Advocate for the petitioner.

Mr. Narender Singh, Advocate for the caveator.

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**Anupinder Singh Grewal, J. (Oral)**

The petitioner/tenant has challenged the orders dated 21.11.2016 and 21.07.2022 whereby the petition preferred by the respondent/landlord for eviction of the petitioner has been allowed by the Rent Controller and the appeal filed thereagainst has been dismissed by the lower Appellate Court.

Learned counsel for the petitioner submits that the impugned orders directing the eviction of the petitioner from the demised premises on account of personal necessity of the respondent/landlord is erroneous inasmuch as under the Haryana Urban (Control of Rent and Eviction) Act, 1973 (for short, 'the Haryana Eviction Act') can be sought only from the residential premises and Sections 13-A and (1A) and 13(3)(a)(i) of this Act specifically state that a landlord may apply to the Controller for an order directing the tenant to put the landlord in possession in the case of a residential building if he/she requires it for his/her own occupation and is not occupying any other residential building in the concerned urban area. As the demised premise is non-residential, the eviction could not have been ordered. In support of her

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submissions, she has relied upon the judgment of this Court in the cases of **M/s Bharat Electricals through its partner Supeinder Kumar and another versus Dr. Sukhdev Raj Goyal and another**, bearing Civil Revision No.7649 of 2010, decided on 14.02.2012 and **Bahadur Singh versus Smt. Sunita Rani**, bearing Civil Revision No.3014 of 2004, decided on 26.08.2015.

Learned counsel for the caveator submits that the Division Bench of this Court in the case of **Vinod Kumar Jain versus M/s Harindera Scientific Works, Gur Bazar, Sadar, Ambala Cantt.**, bearing Civil Revision No.3690 of 2007, decided on 18.05.2011 had held that eviction can be sought even for the premises which are non-residential.

Heard.

The respondent/landlord had preferred a petition under Section 13-A (1-A) of the Haryana Urban (Control of Rent and Eviction) Act, on 13.11.2014, seeking eviction of the premises on account of his personal necessity. The demised premise had been given on rent on 01.06.1991 at a monthly rent of Rs.750/- which had later been enhanced and was being paid at the rate of Rs.2,200/- per month when the ejectment petition had been filed. The respondent/landlord had sought eviction on the ground of bonafide necessity as he had retired from the Palwal Cooperative Sugermill and the premise was required for conducting his own business. The Rent Controller had allowed the ejectment petition on 21.11.2016 by holding that the requirement of the respondent/landlord is indeed *bonafide* as he has to set up his business. The appeal preferred thereagainst by the petitioner/tenant had been dismissed by the Appellate Court vide order dated 21.07.2022.

Section 13-A (1-A) of the Haryana Urban (Control of Rent and

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Eviction) Act, 1973 stipulates that if an application is made by a landlord, who is an employee of the Government of India or of the State Government or the State Board or Corporation, within one year prior to or after the date of his retirement or within one year from the date of commencement of Haryana Eviction Act, whichever is later, on the ground mentioned in sub-clause (I) of clause (a) of sub section (3) of Section 13, the same shall be dealt with in accordance with the procedure specified in this section. Section 13-A (1-A) of the Haryana Act is reproduced hereunder:-

*Where an application is made by a landlord who is or was an employee of Government of India or of Government of Haryana or of any State owned Board of Corporation of Haryana within one year prior to or after the date of his retirement or within one year from the date of commencement of Haryana Urban (Control of Rent and Eviction) Amendment Act, 1990, whichever is later, on the ground mentioned in sub-clause (I) of clause (a) of sub section (3) of Section 13, the same shall be dealt with in accordance with the procedure specified in this section.”*

As there were conflicting judgments of the Coordinate Benches with regard to the applicability of the aforementioned provisions of the Haryana Urban (Control of Rent and Eviction) Act, 1973 to a non-residential building, the matter had been referred to the Division Bench of this Court in the case of **Vinod Kumar Jain versus M/s Harindera Scientific Works, Gur Bazar, Sadar, Ambala Cantt.(supra)**. The Division Bench while deciding the issue had relied upon the judgment of the Supreme Court in the case of **Harbilas Rai Bansal versus The State of Punjab, 1996(1) PLR 227** and the judgment of the Division Bench of this Court in the case of **Ved Prakash Gupta versus State of Haryana and another, 1997(2) PLR 775** and held that the East Punjab Urban Rent Restriction Act, 1949 was the parent Act (as

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applicable to Haryana) and the landowner can seek eviction on account of *bonafide* necessity even for non-residential premises under the Haryana Urban (Control of Rent and Eviction) Act, 1973 as well. The relevant extract of the judgment of the Division Bench in **Vinod Kumar Jain versus M/s Harindera Scientific Works, Gur Bazar, Sadar, Ambala Cantt.(supra)** is reproduced hereunder:-

“Though it is for the legislature to confer right of eviction and also to provide for procedure for eviction in respect of buildings or class of building and confer such right on a landlord or a specific category of landlords, but the distinction between the residential and non residential building has not found favour with the Hon'ble Supreme Court under the [Punjab Act](#). Such provisions have been extended by the Division Bench of this Court to the Haryana Act. **Such view has been approved by the Hon'ble Supreme Court in Mohinder Prasad Jain and Ashok Kumar's case (supra) as noticed above. The distinction between the residential and non-residential building for the purpose of restricting the right of eviction on the ground of personal requirement has not been upheld.** Therefore, the argument that the summary right of eviction of the tenant on the ground of personal requirement from a non-residential building is not available to landlord of such building, is not correct. **A landlord, who satisfies the parameters of sub-section (1) and sub-section (1-A) of [Section 13-A](#) of the Act, is entitled to seek eviction of a tenant from a residential or non-residential building on the ground of personal requirement. Since the distinction between the residential and non- residential building for the purpose of eviction under [Section 13\(3\)\(a\)](#) (i) has not been upheld, therefore, the principles laid down by the Hon'ble Supreme Court in Gian Devi Anand's case are not applicable.**

(emphasis supplied)

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Thus, it is held that a landlord is entitled to seek eviction of a tenant from residential and non residential building in summary manner in terms of [Section 13-A\(1\) & \(1-A\) of the Act](#). Thus while answering

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reference in the above terms, it is held that the contrary judgments of this Court in [Suresh Kumar v. Satish Kumar](#) (CR 5520 of 2004 decided on 26.10.2009) and *Lt. Col. Suraj Parkash (Retd.) v. Bhoop Singh Chaudhary*, 2009(2) RCR (Rent) 470, do not lay down a correct proposition of law and are overruled to the extent they run counter to the view taken.”

The Division Bench of this Court in the case of **Vinod Kumar Jain versus M/s Harindera Scientific Works, Gur Bazar, Sadar, Ambala Cantt.(supra)**, while deciding the issue, had also referred to the judgments of the Supreme Court in the cases of **Mohinder Prasad Jain versus Manohar Lal Jain**, 2006(2) SCC 724 and **Ashok Kumar versus Ved Prakash and others**, 2010(2) SCC 264.

The Supreme Court in the case of **Mohinder Prasad Jain versus Manohar Lal Jain** (supra) had held that the previous experience in the business is not a pre-condition under any statute. Once the respondent/landlord has proved his *bonafide* requirement to evict the tenant for his own purpose, the Court may not, unless an appropriate case is made out, disturb the eviction order passed against the tenant, upheld by the Appellate Authority and affirmed by the High Court.

It had been held by the Supreme Court in the case of **Ashok Kumar versus Ved Prakash and others** (supra) that although the Haryana Urban (Control of Rent and Eviction) Act, 1973 provided for eviction of a tenant from residential premises under Section 13(3)(a)(i) but a landlord can also seek eviction of a tenant from non-residential premises on the ground of his bonafide necessity. The relevant extract of the judgment is reproduced hereunder:-

“19.We have carefully considered the aforesaid decisions of this Court,

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as noted hereinafter. It is difficult to accept that the decisions cited by the learned counsel for the appellant in support of his aforesaid submission will lead us to hold that the landlord shall not be entitled to evict a tenant from a non-residential premises for bonafide requirement, when such ground for eviction has been made available only in case of residential premises. In our view, the view taken in Mohinder Prasad Jain (Supra) cannot be said to be a bad law on the ground that it was really an usurpation of legislative duties on the part of the Court by any stretch of imagination.

20. Therefore, the decisions cited by the learned counsel for the appellant cannot be relied upon for the purpose of holding that the Court is not conferred with the power to entertain an eviction petition against a tenant relating to non-residential premises as, in our view, the correct interpretation of bonafide requirement of a landlord of a residential building must include a non-residential building as well in view of the decisions referred to hereinabove.”

In the instant case, the respondent/landlord had categorically stated about his experience in running business before joining his job in 1985 as Labour Welfare Officer. The *bonafide* necessity of the respondent/landlord with regard to demised premises for his commercial use was duly put forth. It is not in dispute that the eviction petition was filed by respondent/landlord in 2014 i.e. one year prior to his date of retirement in 2015 as per Section 13-A(1-A) of the Haryana Urban (Control of Rent and Eviction) Act, 1973. Therefore, I do not find any merit in the contention of the counsel for the petitioner that the eviction from non-residential premises cannot be ordered.

The judgments relied upon by the counsel for the petitioner would not be applicable in view of the authoritative pronouncement by the Division Bench of this Court. The judgments of **M/s Bharat Electricals through its partner Supeinder Kumar and another versus Dr. Sukhdev Raj Goyal and another(supra)** and **Bahadur Singh versus Smt. Sunita Rani(supra)** are by

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the Single Bench of this Court. The aforementioned judgment of the Division Bench of this Court in the case of **Vinod Kumar Jain versus M/s Harindera Scientific Works, Gur Bazar, Sadar, Ambala Cantt.(supra)** was not brought to its notice. Therefore, I would follow the law laid down by the Division Bench in the case of **Vinod Kumar Jain versus M/s Harindera Scientific Works, Gur Bazar, Sadar, Ambala Cantt.(supra)**.

Consequently, I do not find any infirmity in the impugned orders directing the eviction of the petitioner/tenant from the demised premise on account of personal necessity of the respondent/landlord for setting up his business and the petition stands dismissed.

Pending application, if any, shall stand disposed of accordingly.

(ANUPINDER SINGH GREWAL)  
JUDGE

January 30, 2023  
sonia gugnani

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |