

CR-6018-2022

2023:PHHC:127881

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR-6018-2022

Date of Decision: 3.10.2023

Naresh Jain

....Petitioner

VERSUS

Nitesh Kumar

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Udit Jain, Advocate,
for the petitioner.

Mr. Ajay Jain, Advocate,
for the respondent.

KARAMJIT SINGH, J.

This order will dispose of the present civil revision petition filed by the petitioner-tenant/Naresh Jain seeking setting aside order of eviction dated 5.12.2017 passed by the Court of learned Rent Controller, Hisar whereby the rent petition filed by the respondent-landlord under Section 13 of Haryana Urban (Control of Rent and Eviction Act), 1973(in short, “ the Act”) was allowed and judgment dated 16.8.2022 passed by the Appellate Authority, Hisar whereby the appeal filed by the petitioner against the eviction order dated 5.12.2017, has been dismissed.

2. Brief facts of the case are that the respondent being landlord filed eviction petition against the petitioner on the ground that the petitioner took the shop in dispute on rent @ ₹ 335/- per month from the respondent and that the rent of the shop was increased from time to time and at the time of filing the rent petition, the rate of rent was ₹ 2000/- per month. The

respondent sought eviction of the petitioner on the ground that the rented

premises is required by the respondent for his own use and occupation and non-payment of rent.

3. The rent petition was contested by the petitioner, who filed written reply wherein relationship of landlord and tenant between the parties was admitted but other averments of the rent petition were denied.

4. Learned Rent Controller framed the following issues : -

1. Whether the petitioner is entitled to the relief of mandatory injunction directing the respondent to make the rent, as prayed for ? OPP
2. Whether the respondent is liable to be evicted from the demised shop on the ground of bonafide requirement, as prayed for? OPP
3. Whether the petition of the petitioner is not maintainable in the present form? OPR
4. Whether the petitioner has no cause of action or no locus standi to file the present suit? OPR
5. Whether the petitioner has not come to the Court with clean hands? OPR
6. Relief.

5. In order to prove his case, the respondent-landlord-Nitish Kumar himself appeared in the witness box as PW1 and he also proved documents Ex.P1 to Ex.P13. On the other hand, the tenant himself appeared as RW1 and also examined his neighbour Ved Prakash as RW2 and RW3 Babu Ram Mittal, Property Dealer.

6. After hearing both the parties, learned Rent Controller allowed the eviction petition vide order dated 5.12.2017 while holding that the rented premises is required by the respondent-landlord for his personal use and the appeal filed by the petitioner against the said eviction order was also

dismissed by the appellate authority vide judgment dated 16.8.2022. Both the Courts below held that the shop in question is required by the respondent to run his own business.

7. Counsel for the petitioner argues that the need of the respondent is not bonafide and actually, the respondent intended to increase rent of the demised premises and when the petitioner refused to do so, the present eviction petition was filed by the respondent in order to put pressure on the petitioner to increase the rent of the shop in question. Counsel for the petitioner further submits that the findings recorded by the Courts below are perverse to the facts and evidence on record.

8. Counsel for the respondent-landlord while supporting the eviction order and judgment passed by the appellate authority submits that the requirement of the respondent is bonafide as the shop in question is required by the respondent to start his independent business.

9. I have gone through the judgment passed by the learned Rent Controller and the First Appellate Court. There is no illegality or infirmity in the judgment of both the courts below. It is settled position of law that the landlord is the best Judge of his requirement and the Courts cannot dictate to the landlord as to how and in what manner, he should run his business. Personal need is a question of fact which should not be normally interfered with. It is also settled position of law that while considering the bonafide need of the landlord, when the landlord says that he needs the demised premises for his personal use, he has to prove it but there is no warrant in presuming that his need is not bonafide.

10. In light of the aforesaid settled position of law, this Court asked the counsel for the petitioner as to how the impugned orders are illegal and

perverse on which the counsel for the petitioner failed to point out any illegality or infirmity in the impugned orders. Thus, the concurrent findings recorded by the courts below are hereby affirmed.

11. Faced with this situation, counsel for the petitioner made prayer that the petitioner be permitted to retain possession of the rented shop in question till 15.5.2024 and the counsel for the petitioner further undertakes that the shop in question will be vacated on or before 15.5.2024.

12. Counsel for the respondent is having no objection if the period up to 15.5.2024 is given to the petitioner to vacate the shop in question. At the same time, counsel for the respondent made prayer that the petitioner is liable to pay rent/mesne profits at the rate already assessed by both the Courts below. Counsel for the petitioner has agreed to pay the rent/mesne profits at the aforesaid rate per month till vacation of the shop in question.

13. In view of above, time is granted to the petitioner to vacate the shop in question till 15.5.2024 subject to following conditions : -

1. The petitioner shall file an undertaking affidavit before the Executing Court within next one month that he would vacate the shop in question by 15.5.2024.
2. The petitioner shall continue to pay the rent/mesne profits at the rate assessed by the Courts below till 15.5.2024 on or before 10th day of succeeding month.
3. If the petitioner failed to adhere to any of the conditions referred above, the respondent is entitled to execute the eviction order dated 5.12.2017 without reference to time granted by the Court to vacate the premises in question in accordance with law.

14. With the above directions, the present revision petition is dismissed without any order as to costs.
15. As a sequel, all the pending miscellaneous applications shall stand closed.

(KARAMJIT SINGH)
JUDGE

October 3, 2023
Paritosh Kumar

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