

CR-5949 of 2023 (O&M)

2023:PHHC:130535

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

CR-5949 of 2023 (O&M)
Date of decision: 06.10.2023

Brij Mohan

.....Petitioner

vs.

Kartar Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Lokesh Vohra, Advocate,
for the petitioner.

NAMIT KUMAR, J.

1. Instant revision is directed against the judgment dated 14.12.2022 passed by Rent Controller, Ferozepur, whereby application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the Act') qua a shop as mentioned in the head-note of the same, has been allowed as well as against the judgment dated 11.08.2023 passed by the Appellate Authority, Rent Act, Ferozepur, whereby appeal preferred by the petitioner-tenant against the judgment dated 14.12.2022, has been dismissed.

2. The facts relevant for disposal of this revision are that respondents No.1 to 3 filed an application under Section 13 of the Act, directing the tenants (petitioner and proforma respondent No.4) to hand over the possession of the shop in dispute to them. It is mentioned in the application that Smt. Bhagwati Devi alias Shakuntala Devi widow of Jagan Nath sold the shop in question to respondents No.1 to 3 in equal shares by different sale deeds dated 28.12.1992. At the time of the execution of the

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aforesaid sale deeds, Sh. Jagdish Chander, predecessor-in-interest of the petitioner was a tenant in the demised shop, under the previous owner at a monthly rate of Rs.80/- per month and thereafter, aforesaid Jagdish Chander had become the tenant under respondents No.1 to 3 on previous terms and conditions. There existed a relationship of landlord and tenant between respondents No.1 to 3 and Sh. Jagdish Chander, who was running the business of motor winding in the demised shop and after his death, the present petitioner has been continuing the same occupation in the demised shop. Respondents No.1 to 3 filed the application on the ground of arrears of rent and personal necessity.

3. Upon issuance of notice, the petitioner-tenant appeared through counsel and filed the reply, controverting all the averments made in the application. On merits, it is pleaded that the petitioner herein is still ready and willing to pay the rent since 28.12.1992 at the rate of Rs.80/- per month alongwith interest, but the applicants (respondents No.1 to 3) have refused to accept the rent. He has also denied the ground of personal necessity of respondents No.1 to 3 by submitting that they are big landlords and having vast agricultural land and they are also commission agents.

4. Replication was filed by the respondents wherein they controverted the averments made in the written statement and reiterated those of the petition.

5. From the pleadings of the parties, the learned trial court framed the following issues :-

1. Whether the respondents are in arrear of rent, if so, at what amount and for what period?OPA
2. Whether the applicants bonafide require the demised premises in possession of the respondents as well as other tenant?OPA

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3. Whether the present petition is maintainable? OPA
 4. Whether the present petition has been filed by the petitioner with malafide intention? OPR
 5. Relief.
6. The parties led their respective evidence. The Court of first instance, after appreciating evidence on record allowed the application under Section 13 of the Act.
7. Feeling aggrieved against the said judgment of the trial Court, the petitioner preferred an appeal before the Appellate Authority, Rent Act, Ferozepur, which was dismissed vide impugned judgment dated 11.08.2023.
8. Learned counsel for the petitioner-tenant contended that the impugned judgments passed by both the courts below are against law and the evidence on record. He further contended that both the courts below have wrongly arrived at a conclusion that respondents No.1 to 3 require the demised premises. Respondents No.1 to 3 intend to construct a departmental store with a motive to compete with other stores in the market, but the fact remains that construction activity in the area of Cantonment Board, is not permissible and is very much restricted. In fact, respondents No.1 to 3 did not require the demised premises for their use and occupation. He further contended that respondents No.1 to 3 filed the application under Section 13 of the Act with a *malafide* intention.
9. At this stage, learned counsel for the petitioner contended that possession of the demised shop has been handed over to respondents No.1 to 3 during executing proceedings.
10. I have heard the learned counsel for the petitioner and perused the record.

11. Certain facts i.e. ownership of the demised premises, site plan of the demised premises, rate of rent and the period of tenancy, have been admitted between the parties. The only question which was to be decided by the courts below, was whether there was bonafide personal necessity of the landlord/respondents No.1 to 3. On the aforesaid aspect, it is settled proposition of law that the landlord is the best judge of his need, he cannot be dictated the terms, upon which he should assess his *bonafide* needs. It is the specific case of respondents No.1 to 3 that they need the demised shop, which is in possession of the petitioner and other tenant(s). Learned Appellate Court has observed that the entire area of the composite building is 80' x 80.4" and respondent No.1 to 3 require the entire area where there would be parking facility, wash room facility and other amenities. It is also a fact to be considered that during proceedings, the other properties have already been vacated by other tenants. Both the courts below have rightly held that need of respondents No.1 to 3 seems to be bonafide and that everybody should be given an opportunity to flourish the business and earn handsomely to run his family. The petitioner could not bring on record that need of respondents No.1 to 3 was not *bonafide* whereas the latter have specifically proved that they need the said shop for Swarn Singh and Rakesh Kumar for construction of big departmental store where they can flourish their business. Furthermore as stated above, possession of the demised shop has been handed over to respondents No.1 to 3 in the execution proceedings.

12. Concurrent findings have been recorded by both the Courts below that the landlord-respondents No.1 to 3 require the demised shop for their personal necessity. Learned counsel for the petitioner has failed to

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show that the findings recorded by Courts below are perverse or illegal or based on misreading, non-reading or mis-appreciation of the material evidence on record.

- 13. No other point has been urged.
- 14. Dismissed.
- 15. Pending application(s), if any, stand disposed of accordingly.

(NAMIT KUMAR)
JUDGE

06.10.2023

R.S.

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No