

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

**Civil Revision No.5275 of 2022 (O&M)
Date of Decision: 15 .05.2023**

Tilak Raj

....Petitioner

Versus

Lakhwinder Kumar

....Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Raghav Sharma, Advocate,
for the revisionist-petitioner.

Mr. Raghav Gultai, Advocate,
for the respondent-caveator (landlord).

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MEENAKSHI I. MEHTA, J.

By way of the instant revision petition, the petitioner-tenant (here-in-after to be referred as 'the tenant') has assailed the judgment passed by learned Rent Controller, Taran Taran on 18.08.2021, ordering his eviction from the demised shop and has also laid challenge to the judgment handed down by learned Appellate Authority, Taran Taran on 18.07.2022, whereby the appeal filed by him against the judgment dated 18.08.2021, has been dismissed.

2. As per the brief factual-matrix culminating in the filing of the present petition, the respondent-landlord (here-in-after to be referred as 'the landlord') filed an eviction petition against the tenant to seek his ejectment from the demised shop, while averring that he (tenant) had not paid the rent since 16.12.2013 and moreover, he (landlord) required the said shop for his

personal use, i.e to settle his young son who wanted to start the business of sale of ready-made garments in the same.

3. The tenant (arrayed as the respondent in the eviction petition) filed his written reply, controverting the claim of the landlord therein, on various grounds. The landlord filed the rejoinder and then, the issues were framed on 18.09.2017. After appreciating and evaluating the evidence led by the parties on the record and hearing their respective counsels, the Rent Controller allowed the eviction petition vide the impugned judgment dated 18.08.2021 and directed the tenant to hand over the vacant possession of the demised shop to the landlord within a period of two months and as mentioned in the preceding paragraph, the appeal filed by the tenant against the said judgment has also been dismissed by the Appellate Authority vide the impugned judgment dated 18.07.2022.

4. I have heard learned counsel for the petitioner-tenant as well as learned counsel for the respondent-landlord in this revision petition, at the preliminary stage and have also perused the file carefully.

5. Learned counsel for the petitioner-tenant has contended that the son of the landlord was already employed and therefore, the landlord had no occasion to seek the eviction of the tenant from the demised shop on the ground of its requirement to settle his son in the business of readymade garments and this fact, in itself, shows that the above-discussed ground, as set-forth by the landlord, was not a genuine and bona-fide one and in these circumstances, both the impugned judgments deserve to be set aside. To buttress his contentions, he has relied upon the observations made by the

Apex Court in **Prabha Arora & Anr. vs. Brij Mohini Anand & Ors. 2007(2) R.C.R. (Rent) 600** and **Sri Kempaiah vs. Lingaiah 2002(1) R.C.R. (Rent) 532** and by the Co-ordinate Bench in **Shri Rattan Chand Jain vs. Shri Charan Singh 1978(1) R.C.R.(Rent) 265.**

6. Per contra, learned counsel for the respondent-landlord has argued that the son of the landlord wanted to start his own business of the sale of readymade garments and the landlord required the demised shop for the afore-said purpose and even otherwise, the tenant could not choose the profession or business for the landlord or his son and therefore, both the Courts below have rightly ordered for the eviction of the tenant from the demised shop and it being so, the instant petition is liable to be dismissed.

7. As regards the employment of the son of the landlord, it is worth-while to mention here that in para No.24 in the impugned judgment dated 18.07.2022, the Appellate Authority has specifically observed that the eviction petition had been filed on 06.07.2015 and RW4 Harsh Kumar, the Executive Support, Information Mobile Programming India Pvt. Ltd. Mohali, had deposed that the son of the landlord had worked with them during the period from 30.07.2015 till 05.01.2016. Thus, it is explicit that at the time of filing of the eviction petition, the son of the landlord was unemployed and he had started working with the above-said Company w.e.f 30.07.2015, i.e after the filing of the eviction petition and had worked there up to 05.01.2016 only. It has been held by Hon'ble Supreme Court in **Ramkubai since deceased by LRs vs. Hajarimal Dhokalchand Chandak 1999(2) R.C.R. 213** that “where the landlady wanted the shop for her

unemployed son to start business and the son, later-on, started doing work as contractor, it did not affect the bonafide requirement as the son could not be expected to idle away time by remaining unemployed till the case was finally decided.”

8. The observations made in **Prabha (supra)**, **Sri Kempaiah (supra)** and **Rattan Chand Jain (supra)**, are of no avail to the tenant because in **Prabha (supra)**, the landlady took the plea that she wanted to run tuition/coaching classes in the premises in question after her retirement but the Trust had been created during the pendency of the eviction petition and therefore, the petition was dismissed while observing that on creation of the Trust, the property had passed to the trustees whereas it is not so in the present case.

9. Then, in **Sri Kempaiah (supra)** also, the appellant-landlord himself was residing in a rented premises and his landlord was insisting for the vacation of the same and hence, he (landlord) wanted to convert the entire premises in occupation of the respondents and some other tenants into one portion by making suitable alterations therein and in such circumstances, it was held that the word “require” in Section 21(1)(h) of Karnataka Rent Control Act, 1961 implied something more than a mere wish or impulse or desire on the part of the landlord and the landlord had not led any evidence to show that he was under compulsion to vacate the premises under his occupation whereas in the instant case, the landlord wanted to settle his unemployed young son by starting the business of the sale of ready-made garments in the demised shop which was adjacent to the

shop wherein he himself was running the business.

10. Again, in **Shri Rattan Chand Jain (supra)**, one of the grounds taken by the landlord for seeking the eviction of the tenant, was that the demised house was required for its use by his grand-children and it was held that the grand-children could hardly be said to be the members of his family and the words 'his own occupation' had consistently been interpreted to mean the occupation by the landlord and his dependents but in this case, the landlord sought the eviction of the tenant from the demised shop on the ground of its necessity for his son who was unemployed and was, thus, dependent upon him at the time of filing the eviction petition.

11. Learned counsel for the petitioner-tenant has also contended that the tenant (the appellant in the Rent Appeal) had moved an application under Order 41 Rule 27 CPC in the rent appeal filed by him but the same has not been decided by the Appellate Authority at the time of adjudicating his appeal and hence, the impugned judgment dated 18.07.2022 is not legally sustainable. He has placed reliance upon the observations made by the Co-ordinate Bench in **Vinod Kumar Mittal vs. Girdhari Lal Saroa 2009(2) R.C.R. (Rent) 612**, on this point.

12. However, I do not find the above-raised contention to be tenable because a bare perusal of the impugned judgment dated 18.07.2022 reveals that in para No.23 therein, the Appellate Authority has discussed and has made categoric observations regarding the income-tax returns of the son of the landlord, as sought by the tenant to be produced on the record by moving the afore-mentioned application and in the concluding

para, it has been specifically mentioned that the above-referred application stood allowed. In these circumstances, the observations, as made in **Vinod Kumar Mittal (supra)**, would, again, be of no help to the tenant.

13. As a sequel to the fore-going discussion, it follows that the impugned judgments, as rendered by both the Courts below, do not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the revision petition in hand, being *sans* any merit, stands dismissed.

May 15 , 2023
Seema

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>