

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

**CR No.6016 of 2023(O&M)
Date of Decision: 08.11.2023**

Sunita Ahluwalia and others

.....Petitioners

Vs

Varinder Arora

.....Respondent

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present:Mr. A.S. Kang, Advocate
for the petitioners.

Mr. Aayush Gupta, Advocate
for the respondent.

HARKESH MANUJA, J.(Oral)

[1]. By way of the present revision petition, challenge has been made to the judgments dated 20.05.2022 and 31.07.2023 passed by the authorities below, whereby an order of eviction has been passed against the petitioners-tenants qua the demised premises.

[2]. Briefly stating, respondent-landlord, claiming himself to be one of the co-owners/co-sharers of the property in question being a multi-storeyed building, situated in property No.B-VII-60/61/342,

Chaura Bazar, Ludhiana filed an eviction petition against the petitioners-tenants. It was stated in the eviction petition that the petitioners-tenants were in occupation of certain portion of basement, ground floor and first floor of the aforementioned building. The eviction was sought by the respondent-landlord on the grounds of arrears of rent, besides his *bona fide* need for expanding his already established business.

[3]. On the other hand, in the written statement filed on behalf of the petitioners-tenants, the case set up by the respondent-landlord was denied while submitting that there was concealment of fact on the part of the respondent-landlord for not having disclosed other non-residential building owned and possessed by him in the same urban area of Ludhiana.

[4]. The Rent Controller vide judgment dated 20.05.2022, ordered eviction against the petitioners-tenants, holding the need set up by the respondent-landlord to be genuine and *bona fide* and also recording there being no concealment on the part of respondent-landlord. Aggrieved thereof, petitioners-tenants filed first appeal, however, the same was dismissed by the appellate authority vide judgment dated 31.07.2023.

[5]. Impugning the aforementioned judgments passed by the authorities below, ordering eviction against the petitioners-tenants, learned counsel for the petitioners submits that the Courts below went wrong while discarding the record of assessment register qua building

No.2036 and 2054, situated at Chaura Bazar, Ludhiana, which was produced on record as Ex.RW3/1 to Ex.RW3/4, wherein the respondent-landlord was recorded as owner in possession. He further submits that this was the only evidence available, so as to prove the ownership and possession of the respondent-landlord over these other properties/shops. Learned counsel also points out that the house tax entries showing Vanita Chately, paying the property tax pertaining to the above mentioned property were not relevant for the purpose of consideration in the present case as she was never admitted either owner or landlord by the persons occupying the same against whom, she filed eviction petition, though later dismissed for non-prosecution. Learned counsel thus prays that adverse inference was required to be drawn against the respondent-landlord, especially in view of his cross-examination, who appeared as PW-2 and was not even certain about the status of those properties. No other argument has been addressed by learned counsel for the petitioners.

[6]. On the other hand, learned counsel representing respondent-landlord submits that there has been no concealment of facts on the part of respondent-landlord; as neither he was owner, nor occupier of any other property in the same urban area as alleged by petitioner-tenant. He further points out that the documentary evidence in the shape of RW-3/1 to RW3/4, pertained to the shops situated within the building/property No.2036 at Chaura Bazar, Ludhiana and were relating to the years 1997-2007, whereas the eviction petition in

question was filed in the year 2015. He further submits that the entries made in the assessment register pertaining to the years 2013-14 and 2020-2021 were later brought on record by the petitioners-tenants themselves through their witness-RW3 as RW3/7 and RW3/8, wherein the respondent-landlord was neither recorded as owner, nor an occupier of those shops and thus judgments passed by the authorities below warrant no interference. Learned counsel also submits that the *bona fide* need of the respondent-landlord was duly established on record as regards his requirement qua expansion of his already established business.

[7]. I have heard learned counsel for the parties and perused the paper book as well as record. I am unable to find substance in the submissions made on behalf of the petitioners-tenants.

[8]. In the present case, the respondent-landlord being co-sharer/co-owner in the property in question i.e. multi storeyed building bearing No.B-VII-60/61/342, Chaura Bazar, Ludhiana sought eviction against the petitioners-tenants qua its basement, ground floor and first floor with the averments that the second floor, third floor and fourth floor were either in occupation of co-owners or different tenants. It was further pleaded that the respondent-landlord who was already running his garment business in different tenanted premises within the same urban area, intending to expand the same by opening one retail counter with tailoring unit as well and for the said purpose, he required the aforementioned three portions of the property in question.

[9]. Perusal of evidence available on record, in the shape of statement of respondent-landlord (PW-2), besides the documentary evidence, establishes on record that the respondent-landlord has already been running his readymade garment business in the name of M/s Bombay Stores and is intending to expand the same by clubbing the retail counter as well as a tailoring unit and of course. The respondent-landlord who has been running his business from different portions of property No.1192-A; Daya Nand Road, Civil Lines, Ludhiana, taken on rent by him vide Ex.PW1/A to Ex1.PW1/2 has his own right to excel in life by making expansion of his already existing business from the demised premises, owned by him. Even the Courts below have recorded concurrent findings of fact as regards his *bona fide* need pertaining to three portions of the demised premises, enabling him to set up and expand his own business therein. Nothing material has been pointed out on behalf of the petitioners-tenants either from the paper book or from the records, which could enable this Court to draw a different opinion in this regard.

[10]. As regards, the plea raised on behalf of the petitioners-tenants that the respondent-landlord has concealed the factum of ownership and possession over the shops No.2054-D, 2054-H, 2054-H1 and H2 forming part of property No.2054 or even property No.2036, the same, in the humble opinion of this Court is misplaced. From the evidence available on record, it is evident that the aforementioned shops were neither owned; nor occupied by the petitioners-tenants at the relevant

point of time i.e. on the date of filing of the eviction petition (in the year 2015).

[11]. A perusal of RW3/7 and RW3/8 i.e. the record pertaining to the assessment of aforementioned properties shows that neither the respondent-landlord has been recorded as owner; nor in occupation thereof, especially when these entries pertain to relevant years of 2013-14 and 2020-21. The reliance placed upon by the petitioners-tenants on the documents Ex.RW3/1 to RW3/4 against the entries made in the assessment register pertaining to the aforementioned shops cannot come to the rescue of the petitioners-tenants as the same relate to the year 1997-2007 i.e. much prior to filing of the eviction petition being not relevant to the controversy in hand. This aspect has even been dealt with in detail by the Appellate Authority which being relevant is reproduced hereunder:-

“..... Ld Counsel for the appellant referred to the testimony of RW-3 Sukhbir Singh, Record Clerk M.C. Ludhiana examined by the respondents-appellants who brought the assessment registers of property nos.2054 and 2036 situated at Chaura Bazar Ex.RW3/1 and Ex.RW3/5 to show that petitioner was in possession of the Shops no.2054-D, 2054-H, 2054HI, 2054H-2. However on the directions of the Court he produced the latest record regarding same properties which showed that property no.2036 had been sold to Veena Rani and petitioner was no more in possession of

the same. RW-3 admitted in his cross-examination that area measuring 116 Sq. yards in property no.2035A and 2036 was owned by Veena Rani and she had filed property tax with regard to this property as Ex.RW3/6 and as per latest Property Tax Return Assessment Record Ex.RW3/7 and Ex.RW3/8 with respect to property no.2054, the petitioner was neither recorded as its owner nor he was in possession of said property. Persual of record further shows that the petitioner had placed on record copy of sale deed qua property no.2036 in favour of Veena Rani which corroborated the entries made in Property Tax Return Assessment Report Ex.RW3/5. Hence, it is proved that the petitioner has not concealed any material fact from the court and at the time of filing the petition he was not in possession of any other property in the locality where the demised premises was situated.....”

Thus in the absence of there being any proof of ownership or occupation of aforementioned shops by the respondent-landlord, there being no illegality and perversity in the judgments passed by the authorities below while having non-suited the respondent-landlord on account of plea raised by the petitioners-tenants as regards concealment or misrepresentation on his part, the same need to be upheld.

[12]. In view of the discussions made hereinabove, no interference

is warranted in the judgments passed by the authorities below especially in the limited revisional jurisdiction of this Court. Resultantly, the present revision petition is dismissed.

[13]. Pending application(s), if any, shall also stand(s) disposed of.

08.11.2023
Prince

(HARKESH MANUJA)
JUDGE

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