

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6453-2023 (O&M)
Date of Decision:-03.11.2023

M/S TARUN MEDICOS AND ANR

... Petitioner(s)

Versus

MUKESH KUMAR

... Respondent(s)

-. -

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-. -

Present:- Mr. Shailesh Aggarwal, Advocate
for the petitioners.

Mr. Tarun Seth, Advocate
for caveator/respondent.

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KARAMJIT SINGH, J. (Oral)

1. This order will dispose of the present civil revision petition filed by the petitioner-tenant seeking setting aside order of eviction dated 12.10.2022 passed by the Court of learned Rent Controller, Ludhiana whereby the rent petition filed by the respondent-landlord under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short, "the Act") was allowed and judgment dated 6.10.2023 passed by the Appellate Authority, Ludhiana whereby the appeal filed by the petitioner against the eviction order dated 12.10.2022, has been dismissed.

2. The 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 @ ₹18,000/- per annum besides house/property tax and electricity charges and it was settled between the parties that the rate of rent would be increased @ 25% after every 5 years. The respondent sought eviction of the petitioner on the ground of non-payment of rent w.e.f. September, 2015 along with house tax and the property in dispute was required by the respondent for his personal use and occupation as the respondent is already running his hosiery business under the name and style of M/s Shivam Hosiery and is having no sufficient space to set up his office for dealing and trading in hosiery business.
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 the other averments of the rent petition were denied.
4. Learned Rent Controller framed the following issues : -
 1. Whether the landlord and tenant relationship exists between the parties ?
OPP
 2. Whether the respondent is liable to pay arrears of rent as prayed for? OPP
 3. Whether the property in dispute is required by the petitioner for his personal and family member use and occupation as explained in petition?
OPP
 4. Relief.

5. In order to prove his case, the respondent-landlord-Mukesh Kumar himself appeared in the witness box as PW1 and tendered documents Ex.P1 to Ex.P4 and also examined PW-2 Devinder Kumar. On the other hand, the counsel for the tenant examined RW-1 Harminder Singh, RW-2 Joginder Singh, RW-3 Tarun Kumar Gupta, RW-4 Ravi Kumar, Draftsman and RW-5 Ramesh Chander Gupta and also produced various documents Ex.RW4/1 to Ex.RW4/8, Ex.RW5/1 and Ex.RW5/2.
6. After hearing both the parties, learned Rent Controller allowed the eviction petition vide order dated 12.10.2022 while holding that the rented premises is required by the respondent-landlord for his personal use. The appeal filed by the petitioner against the said eviction order was also dismissed by the Appellate Authority vide judgment dated 6.10.2023. Both the Courts below held that the property in question is required by the respondent to run his own business/office.
7. Counsel for the petitioner while assailing the impugned judgments, *inter alia* contends that need of the respondent is not *bona fide* and genuine as he is owner in possession of many other non-residential buildings, which are lying vacant. That actually, the respondent is not running any hosiery business and is not in need of any space to run his office. It appears that the respondent is running some joint business with his brothers. The counsel for the petitioner further submits that the petitioner is running his business in the demised premises since long and the same is his sole source of income.

8. On the other hand, the counsel appearing on behalf of the respondent while supporting the impugned judgments *inter alia* contends that the premises in question is required by the respondent for his personal use and occupation. It is further contended that the requirement of the respondent is reasonable and *bona fide* and there is no greed on the part of the respondent. The counsel for respondent further submits that the respondent requires the demised premises for the purpose of his office and the said site is most suitable place to open the office as the same is situated near the factory of the respondent. The counsel for the respondent further contends that landlord is best judge of his requirement and the tenant is having no right to dictate his terms in this regard.
9. I have considered the submissions made by counsel for the parties and gone through the judgments passed by both the Courts below.
10. There is no illegality or infirmity in both the judgments passed by Courts below. In the instant case the relationship of landlord and tenant between the parties is admitted. The consistent and reliable evidence is there on the record that the respondent, who is running hosiery business requires suitable site for setting up his office and that the demised premises is suitable for the said purpose. It is settled position of law that the landlord is the best Judge of his requirement and the Courts as well as tenant cannot dictate to the landlord as to how and in what manner, he should run his business. Personal need of the landlord is a question of fact which should not be normally interfered with. The Appellate Authority while referring to **Rekha**

Rani vs. Dr. Raj Kumar Jindal, 2014(3) RCR (Civil) 74 has rightly held that mere possession of other property, which may not be suitable, cannot be a disqualification to seek eviction order on the ground of personal necessity by the landlord. Thus the concurrent findings recorded by the Courts 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 02.11.2024 and the counsel for the petitioner further undertakes that the shop in question will be vacated on or before 02.11.2024.
12. Counsel for the respondent is having no objection if the period up to 02.11.2024 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 02.11.2024 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 02.11.2024.
 2. The petitioner shall continue to pay the rent/mesne profits at the rate assessed by the Courts below till 02.11.2024 on or before 10th day of succeeding month.

3. If the petitioner fails to adhere to any of the conditions referred above, the respondent is entitled to execute the eviction order dated 12.10.2022 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.

03.11.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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