

CR-7223 of 2023

2023:PHHC:159247

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

CR-7223 of 2023

Date of decision: 01.12.2023

M/s Anil Kumar & Sons and another

.....Petitioners

Versus

Sudarshan Kumari

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Pankaj Bali, Advocate,
for the petitioners.

NAMIT KUMAR, J.

1. Instant revision petition has been filed under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the Act') impugning the judgment dated 01.12.2018 passed by the Rent Controller, Khanna, whereby petition filed by the respondent-landlord under Section 13 of the Act has been allowed and petitioner-tenants have been directed to vacate the demised premises and hand over the possession of the same to the respondent-landlord within a period of two months from the date of judgment as well as against the judgment dated 09.10.2023 passed by the Appellate Authority, whereby appeal filed by the petitioner against the judgment of the Rent Controller dated 01.12.2018, has been dismissed.

2. Brief facts of the case are that respondent-landlord filed a petition under Section 13 of the Act for ejectment of the petitioner-

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tenants from the shop situated at Ward No.10, Mohalla Dhobian, Khanna Kalan, Tehsil Khanna, District Ludhiana, on the ground of non-payment of rent and for settling her widow daughter-in-law in the said shop. The said petition was allowed by the Rent Controller vide judgment dated 01.12.2018 on the ground of personal necessity. Aggrieved against the judgment of the Rent Controller, petitioners preferred appeal, which has been dismissed by the Appellate Authority vide judgment dated 09.10.2023. Hence, this revision petition.

3. Learned counsel for the petitioners contended that both the Courts below erred in ordering ejectment of the petitioners from the demised shop. He further contended that Courts below failed to appreciate that respondent-landlord had failed to prove her personal necessity. He further contended that respondent has concealed the fact that she was having two more shops, which could be used to run business of her daughter-in-law. He further contended that respondent did not produce any other witness even her daughter-in-law has not stepped into the witness box to corroborate her version regarding *bona fide* need of the shop in dispute.

4. I have heard learned counsel for the petitioner and perused the record.

5. To prove her case, respondent-landlord herself stepped into the witness box. During her cross-examination, she remained firm regarding her *bona fide* need of demised shop for the purpose of settling her widow daughter-in-law Neelima's business. The contention of the learned counsel for the petitioners that respondent

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was having two more shops for her use cannot be accepted inasmuch as in his own statement during cross-examination, petitioner Anil Kumar RW1 has stated that out of two shops, one has been converted to garage by the respondent-landlord at Mohalla Ucha Vehra where she parks her car and the other shop has been let out by her to one tenant at Ucha Vehra and the tenant to whom said shop has been let out by the respondent is not being used for his business by the tenant but he is residing in the same. Thus, from the own statement of the petitioner-tenant it is clear that the property referred to by the petitioners is residential property where respondent cannot run her business.

6. It is settled proposition of law that the landlord is the best judge of his/her need, he/she cannot be dictated the terms, upon which he/she should assess his/her *bona fide* needs. Respondent has fully proved that tenanted shop was required for her *bona fide* personal necessity to settle her widow daughter-in-law in the said shop. Respondent was cross-examined at length, however, nothing adverse could be elicited.

7. Hon'ble Supreme Court in ***Mehmooda Gulshan v. Javaid Hussain Mungloo, 2017(1) L.A.R. (Rent) 237*** has held that where petition has been filed for *bona fide* need of son and son has not been examined then, mere non-examination of the family member who intends to do the business cannot be taken as a ground for repelling the reasonable requirement of the landlord because it is for the landlord to decide as to the best use of the premises should be put to and there is nothing wrong on the part of the landlord in making plans for a better

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living by doing business engaging her son. In view of the law laid down by the Hon'ble Supreme Court contention of the learned counsel for the petitioners that to prove *bona fide* need respondent had not examined her daughter-in-law, is turned down.

8. Concurrent findings have been recorded by both the Courts below that respondent-landlord proved that she was in *bond fide* requirement of the demised shop and there is nothing on record to show that respondent occupies any other non-residential building within the municipal limits of Khanna or that she has ever vacated similar non-residential building at Khanna. Learned counsel for the petitioners has failed to show that the findings recorded by the Courts below are perverse or illegal or based on misreading, non-reading or misappreciation of the material evidence on record. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the judgments by way of exercising the revisional jurisdiction.

9. No other point has been urged.

10. Dismissed.

11. Pending application(s), if any, stand disposed of accordingly.

01.12.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No