

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

2024:PHHC:104044



CR No.44-2024 (O&M)

Date of Decision:- 12.08.2024

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Keemti Rai

...Petitioner

Versus

Dalip Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr.Shivender Pal Singh, Advocate for
Mr.B.S.Bhalla, Advocate
for the petitioner.
Mr.Akhil Kashyap Advocate for respondent No.1.

PANKAJ JAIN, J. (Oral)

1. Tenant is in revision.
2. Challenge is to the order dated 07.11.2023 passed by the appellate authority dismissing the appeal filed by the tenant-petitioner affirming the order dated 10.05.2022 passed by Rent Controller Moga whereby the petitioner has been ordered to be evicted from the demised premises under Section 13 of the East Punjab Rent Restriction Act, 1949 (hereinafter-referred to as the Act), seeking ejectment of the respondent from the premise in the form of shop as detailed in the head note of the petition.
3. The eviction was sought on the ground of non-payment of rent and on account of bonafide personal need.
4. Tenant resisted the eviction petition questioning the maintainability of the petition and the need projected by the landlord. It was

claimed that the landlord has sufficient properties within the municipal limits of Moga and the requirement being projected is not bonafide.

5. The Rent Controller, Moga framed the following issues :-

“1. Whether the petitioner is entitled for ejectment of the respondent on the ground of non payment of rent as prayed for?
OPA

2. Whether the petitioner requires the premises in dispute on account of bonafide personal necessity?OPA

3. Whether the ejectment application of the petitioner is not maintainable?OPR

4.Relief.”

6. So far as the nonpayment of rent is concerned, provisional rent was assessed and the same was paid before the Rent Controller, though landlord claims that it was paid only up to the year 2017. However, the Rent Controller found that the landlord succeeded in proving his need and thus allowed the petition ordering eviction of the petitioner from the demised premises.

7. During pendency of the proceedings before the Rent Controller, landlord Dalip Singh died and was succeeded by his son Kulwant Singh.

8. Both the parties aggrieved with the order, preferred appeals before the appellate authority; landlord was aggrieved with respect to the finding recorded by the Rent Controller to the effect that the rent stood paid whereas the tenant was aggrieved with the order of eviction was on the ground of bonafide need. Appellate authority decided both the appeals vide impugned order. The appeal filed by landlord Dalip Singh stands allowed.

The tenant has been held liable to pay arrears of rent for a sum of Rs.99,462/- as residual amount. Para 20 of the appellate authority assessing the arrears of rent reads as under:-

“This authority is of the view that the provisional rent by the learned Rent Controller was to be assessed in the following manner :-

From 02.09.2014 to 01.12.2014 @ Rs.2413/-	Rs 7239/-
From 02.12.2014 to 01.12.2015 @ Rs.2413/-	Rs. 28,956/-
From 02.12.2015 to 01.12.2016 @ Rs.2413/-	Rs. 28,956/-
From 02.12.2016 to 01.09.2017 @ Rs.2775/-	Rs. 24,975/-
Total	Rs. 90,126/-
Interest:-	Rs. 8336/-
Cost	Rs. 1000/-
Total :-	Rs. 99,462/-”

9. The petitioner was granted one month time to pay the amount of rent failing which he will have to face the eviction.

10. Appeal preferred by the tenant stands dismissed holding that the landlord has proved his need which is bonafide and thus is entitled to get the petitioner vacated from the demised premises.

11. Counsel for the petitioner while assailing the impugned judgment submits that defence of the tenant regarding bonafide need of the landlord has not even been discussed by the courts below. Despite the fact that the petitioner-tenant cleared the arrears of rent, finding with respect to the arrears of Rs.1 lac has been wrongly recorded.

7. Learned counsel for the petitioner is not in a position to dispute the pleadings with respect to proviso attached to section 13(4) of the 1949 Act was fully complied with. He does not dispute that so far as the statement

of the landlord Kulwant Singh concerned, the same remains un-rebutted on record.

Keeping in view the principle that the landlord is best judge of his need and neither the tenant nor the court can dictate terms regarding his need, this Court does not find any reason to interfere with the findings recoded by the courts below.

8. Hence, the present petition is dismissed.

12.08.2024
sd

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned: Yes/No.
Whether reportable: Yes/No.