

**CR-9205-2017 (O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
105****CR-9205-2017 (O&M)****Pronounced on: 02.09.2024****SURESH KUMAR @ SURESH CHANDER AND ANOTHER****.....PETITIONERS****V/S****JEET RAM AND OTHERS****.....RESPONDENTS****CORAM: HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Akshay Bhan, Sr. Advocate with
Mr. Santosh Sharma, Advocate and
Mr. Varun Sandhu, Advocate,
for the petitioners.

Mr. Sanjay Mittal, Advocate,
for the respondents.

RITU TAGORE, J.

1. This is landlords-petitioners' revision-petition, against the order dated 26.10.2017, passed by the learned Appellate Authority (Additional District Judge), Jhajjar, in Rent Appeal No. 36 of 2017, dismissing the Rent petition No RBT-3 of 2011/2016, titled 'Suresh Kumar @ Suresh Chander and another vs. Jeet Ram and others' by overturning the order of ejectment dated 06.03.2017, passed by the learned Rent Controller, Bahadurgarh.
2. For easy reference, the parties to the *lis*, hereinafter, shall be referred to by their original status in the petition.
3. The relevant facts necessary for adjudication of this revision are as under:



The petitioners instituted a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as '1973 Act'), seeking eviction of the respondents from the demised premises i.e. Shop No. 25 measuring 153 Sq.Yards, marked with letters AFGI out of 555 Sq. Yards, situated at Anaj Mandi Bahadurgarh, within the MC of Bahadurgarh Town, Tehsil, Bahadurgarh, fully depicted in the site plan attached and detailed in the headnote of the petition, by pleading that in an oral family settlement between petitioner No. 1 and his brother Sat Prakash, the shop No. 25 fell to the share of petitioner No. 2 and her share was transferred in her name vide registered sale deed No. 3713 dated 03.03.1992. Since then, the petitioners are residing on first floor of shop No. 25.

4. Petitioners averred that there exists relationship of landlord and tenant between the parties. The premises in question was rent out to respondent No. 1 in the year 1967 for commercial purposes at rate of Rs.1100 per annum and prevalent rate of rent of the demised shop is Rs. 2600 per annum, which was enhanced in year 2000.

5. The petitioners sought the eviction of the respondents on the grounds of *bona-fide* personal necessity for the settlement of their sons in their separate business, non-payment of rent and impairment of the value and utility of the demised shop by the respondents by erecting a 4 feet high *pucca* wall from point EO without their permission. The petitioners pleaded that the demised premises is required for running the business of *Kariyana*, *Adhat* and *Khal Binola* (cattle feed) for their sons, namely, Ashu and Rajat Aggarwal. Their sons are trained shopkeepers and can start the business. They do not have any other suitable



building/premises for this purpose except the disputed shop, even the petitioners and their sons are residing on the first floor of the shop.

6. The petitioners further pleaded that they have not vacated any such building without any sufficient cause after the commencement of the Act in 1949 in the urban area of Bahadurgarh Town. Respondents are in possession of part of the shop as detailed in the site plan and in remaining part, petitioner No. 1 is running his business. There is no other commercial property in the possession of the petitioners.

7. In the written statement filed on behalf of the respondents, they did not dispute their relationship, however, denied the grounds of ejectment by alleging that petitioners do not require the premises for their use and occupation as alleged. They have other several properties in their occupation and use, where the sons of the petitioners are doing their business. The petitioners have concealed these material facts. Ashu, elder son of petitioners, is carrying on the business of rice, sugar etc. in Shop No. 25 and is paying income tax. There is no *bona-fide* necessity of the petitioners.

8. The petitioners, in their replication, submitted that their son, namely, Ashu is doing the business of selling sugar only and due to lack of space, is unable to do his business independently and denied that the remaining part of the demised premises is in possession of their son.

9. Since parties were at variance, learned rent Controller framed the following issues:

1. Whether their exist relationship of land-lord and tenant between the parties to the petition? OPP



2. Whether the respondents are liable to be ejected from the premises on the ground of non-payment of rent on behalf of the respondent-tenant? OPP
 3. Whether the respondents are liable to be ejected from the premises on the ground of bonafide requirement? OPP
 4. Whether the respondents are liable to be ejected from the premises on the ground of impairing the value and utility of the suit premises? OPP
 5. Whether the petition of the petitioners is not maintainable in the present form? OPR
 6. Whether the petitioners have concealed true and material facts from the Hon'ble Court? OPR
 7. Relief.
10. In order to substantiate their respective version, the parties presented their evidence as detailed in the order/judgement of the learned Rent Controller. Upon appraisal of the evidence, learned Rent Controller, held that petitioners require the demised premises for the business of their sons and ruled against the petitioners on the other ground of diminishing of value and utility of the demised premises and deemed the issue of non-payment of rent as infructuous due to the tender of the demanded rent. Accordingly, allowed the petition and passed the eviction order.
11. Aggrieved by the order of eviction, the respondents-tenants preferred the appeal before learned Appellate Authority, Jhajjar. On re-appraisal of the evidence, learned Appellate Authority, reversed the order passed by the learned Rent Controller holding that need on the part of the petitioners was not *bona-fide* and genuine and petitioners did not disclose the properties in their possession.
12. Dissatisfied with the findings of the learned Appellate Authority, Jhajjar, preferred this revision.



13. Challenging the dismissal of the eviction petition by reversal of the findings of learned Rent Controller, learned counsel for the petitioners submits that learned Appellate Authority materially erred in appreciating the evidence on record. The sole basis on which petition has been dismissed was that the petitioners did not disclose the details of the other premises and business, conducted by the petitioner No. 2 and his sons. However, learned counsel states that the entire premise for reversing of the judgment of the learned Rent Controller is misconceived, as the petitioners clearly disclosed that part of the property is in possession of petitioner No. 1, where he is running the business of Rice and '*Khal Binola*' under the name of Aggarwal Trading Firm in the part of Shop No. 25 and his son Ashu, does the business under the name of M/s Singla Trading in godown of Shop No. 25 and his son Rajat works with him. Learned counsel submits that in the petition and in the site plan, the petitioners have clearly depicted the demised shop with one portion under the occupation of respondents and the remaining with the petitioners. It is submitted that there has been no non-disclosure on the part of the petitioners. The only requirement, as submitted by learned counsel under Section 13 of the 1973 Act, is that landlord should not be occupying any other residential/non-residential building in urban area concerned and has not vacated such building in the urban area without cause. It is stated that learned Appellate Authority misconstrued and misinterpreted the provisions of law as well as the evidence on record, and wrongly observed the concealment of other properties and business run by the petitioners. The petitioner No. 1 while appearing as PW-1 stated as per the petition and deposed that he is running business in a part of the shop, which is inadequate for both of his sons to run their independent business. The godowns are not appropriate place to run a shop and



their location is also not suitable to run the business. They require the rented premises to run the business for their children. It is stated that respondents failed to present any evidence to show that petitioners are guilty of concealing any material fact regarding the availability of other properties in the urban area concerned. Contending that dismissal of the petition, is result of non-application of mind by the learned Appellate Authority to the factual and legal aspect of the case. Based on these submissions, a prayer is made to allow the revision, set aside the impugned order of learned Appellate Authority and restore the order of learned Rent Controller, Bahadurgarh. In support of his arguments, he has relied upon the judgments of this Court in **Mohini Devi Vs. Ajit Singh**, 2023 (2) RCR (Rent) 353, **M/s Vishal Sarees and Dresses and another Vs. Maninder Kaur and others**, 2022 (2) RCR (Rent) 543, **M/s Mangal Deep and another Vs. Rajinder Parsad and others**, Civil Revision No. 5609 of 2012, decided on 23.02.2017, **Ram Narayan vs. Raj Kumar Aggarwal**, Civil Revision No. 6176 of 2016, decided on 01.03.2017 and **Dr. S.S.Mann Vs. A.K.Sharma**, 2013 (4) RCR (Civil) 1054.

14. Per contra, learned counsel for the respondents-tenants, while defending the order of learned Appellate Authority, contends that petitioners made false averments in the ejectment petition that they were not occupying any other premises in the urban area concerned. In this regard, referred to the statement of petitioner No. 1-Suresh Kumar PW1, who admitted that his son Ashu, is running a separate shop in part of the Shop No. 25 and petitioner No. 2 is doing business under the name and style of Parsuram Trading in another premises. In this regard, learned counsel also referred to Sale Deeds Ex. R1 to Ex. R5, proving the existence of other properties in the name of Mamta Aggarwal, daughter-in-law of



the petitioners, as well in the name of petitioner No. 2-Saroj Devi wife of Suresh Aggarwal within the municipal limits of Bahadurgarh. Learned counsel, while referring to the testimonial account of the petitioner No. 1 (PW1) and his sons Ashu (PW2) and Rajat Aggarwal (PW5), submits that they deliberately concealed these properties owned and possessed by them and the business conducted by them, in the pleadings. Therefore, they are guilty of concealing material facts of their occupying another properties within the urban area concerned. The learned Appellate Authority appropriately appreciated these facts and rightly dismissed the petition. It is stated that there is no merit in revision and same should be dismissed. In support of his arguments, he has relied upon a judgment of Hon'ble the Supreme Court in **Ajit Singh and another vs. Jit Ram and another**, 2008 (4) RCR (Civil) 390 and the judgments of this Court in **Shankar Lal vs. Madan Lal**, 2011 (1) RCR (Rent) 139, **Vinod Kumar vs. Bhushan Kumar Jain**, 2019 (1) RCR (Rent) 325 and **Arjun Dass vs. Smt. Birinder Kaur and another**, 2013 (3) RCR (C) 156.

15. I have heard the submissions made by the learned counsel for the parties and with their able assistance, have gone through the records of the case.

16. To consider the arguments advanced, it is apposite to refer to the relevant portion of Section 13 of the Act, which reads as under

“13 (1) XXX XXX XXX XXX

(2) XXX XXX XXX XXX

(3) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession-
(a) in the case of a residential building, if,-

(i) he requires it for his own occupation, is not occupying another residential building in the urban area concerned



and has not vacated such building without sufficient cause after the commencement of the 1949 Act in the said urban area;

XXXX”

17. It is not in dispute that as per settled law, eviction of a tenant on the ground of *bona-fide* personal necessity of the premises can be sought by a landlord from non-residential building also under the provisions of Section 13 (3) (a) (i) of the Act.

18. The petitioners sought the eviction of the respondents from the demised premises i.e. a Shop measuring 153 Sq. Yards, the part of Shop No. 25 measuring 555 Sq. Yards. The petitioners in the amended petition, in respect of their plea for *bona-fide* necessity, made following pleadings:

“10 (b)- That the petitioners *bona-fidely* requires the disputed premises for their sons namely Ashu and Rajat Aggarwal for starting their business of Kariyana and Adhat along with Khal Binola business respectively and are not having any other suitable building/premises for this purpose and have not vacated such building without any sufficient cause after the commencement of 1949 Act in the urban area of Bahadurgarh Town except the disputed one. Both the sons of the petitioners being trained shopkeepers are competent to start their own business.”

19. The respondents in their corresponding reply, made the following averments:-

“Para No. 10 (B) of the petition is denied. The petitioners do not *bona-fidely* require the disputed premises for their sons Ashu and Rajat Aggarwal for starting their business of Kiryana and Ahat along



with khal, binola business respectively and they are not having any suitable building/premises for this purpose as alleged. Ashu son of the petitioners is having one shop No. 25 in which he is carrying on the business of Rice, Sugar etc. under the name and style of Singla Trading Co. His capital is more than 11,00,000/- in that firm and has been paying Income Tax. The averments made in this para of the petition are incomplete and do not fulfil the complete mandatory requirements of Section 13 of Rent Act. The petitioners have not disclosed the complete details of the properties which they have and their sons have situated at Bahadurgarh or anywhere in India.”

20. In replication, the petitioners pleaded as under:

“That para No. 10 (b) of reply/written statement is wrong and denied and that of the petition being correct is reaffirmed. It is vehemently denied that the remaining part of Shop No. 25 is in possession of the son of the petitioner Sh. Ashu as alleged by the respondents. However, it is submitted that Sh. Ashu is dealing with the business of sugar only. It is submitted that the petitioner is doing his business of rice and cattle feed in remaining part of Shop No. 25 and Sh. Ashu is unable to do his independent business due to lack of space.”

21. In order to substantiate their pleadings, the petitioner Suresh Kumar appeared as PW-1 and testified that he requires the demised shop for his sons Ashu and Rajat for doing their business of *Kariyana* and *Khal Binola*. He does not have any other shop except the shop in dispute, within the MC limits of Bahadurgarh. Neither he has vacated nor sold any shop within the urban area concerned. He also deposed that in the Southern side of Shop No. 25, he is



running his business of rice and animals feed. Ashu, his son is doing business of selling Sugar and *Kariyana* in one of the godowns of Shop No. 25. Due to paucity of space in the godown, his son Ashu is unable to run his business properly and has to keep the material in the residential house. Further, customers also do not reach up to godown. His son, Ashu who is married, wants to run a separate shop of his own. His other son, Rajat has left his studies and he also wants to run his own shop of Commission Agent and *Khal Binola*. During cross-examination, he admitted that his son Ashu runs business under the name of M/s Singla Trading and he is doing business under the name of M/s Aggarwal Trading. The other firm named Parsuram Trading is owned by his wife and is being run from a godown situated at Aggarwal Colony, Bahadurgarh. He denied having three factories, shops and other properties. He admitted that his son Rajat, works with him.

22. Ashu, the son of the petitioners, appeared as PW-2 and deposed that he is doing the business of sale of sugar under the name of M/s Singla Trading in Shop No. 25. His father is also doing business in Shop No. 25 under the name of M/s Aggarwal Trading. He stated that his brother Rajat works part time with his father. However, feigned if his mother runs any firm under the name of Parsuram Trading. Rajat, another son of petitioners appeared as PW5 and deposed on the same lines as that of his father (PW1) and brother Ashu (PW2). He denied that he helps his mother in running business under the name of Parsuram Trading. On the contrary, he asserts that he helps his father in his business.

23. The sale deeds Ex R1 and Ex R2 are of the plots measuring 84 Sq. Yards and 15 Sq. Yards in the name of daughter-in-law of the petitioners. Ex R3 to Ex R5 are the sale deeds of plot measuring 84 Sq. Yards, 15 Sq. Yards and roof



top with covered area 200 Sq. Yards, are in the name of petitioner No. 2. All the properties are within the MC of Bahadurgarh.

24. Section 13 (3) (a) (i) of the Act necessitates three conditions;
- i) the landlord requires the premises for his/her own occupation, which includes the requirement of his family member.
 - ii) he/she is not occupying another residential building within the urban area concerned.
 - iii) he/she has not vacated such building without sufficient cause after the commencement of the Act, 1949 in the said urban area.
25. In the present petition, the concern is with respect to condition (ii) only, wherein the expression used is 'occupying' i.e. 'in occupation'. The words 'possession' and 'occupation' are two different words with distinct meanings; the legislature has consciously used the latter only (occupation). Section 13 (3) uses the word 'possession'. Section 13 (3) reads-A landlord may apply to the Controller of an order directing the tenant to put the landlord in possession, whereas Section 13 (3) (a) (i) uses the word 'occupying'. Therefore, requirement of law is, occupation/occupying and not ownership and possession. These two expressions cannot be used interchangeably. The expression 'occupying' means use of premises in occupation. It refers to the state of being in control and using the property. The term 'possession', connotes, the fact of having or holding property in one's power or exercise of domanian over the property to exclusion of others. The word 'occupation' has a wider meaning as it includes possession and not vice versa. 'Possession' does not include occupation. The Hon'ble Supreme Court, with reference to provisions of Section 13 (2) (v) of the 1973 Act, explained the terms 'possession' and 'occupy' in **Ram Dass vs. Davinder**, 2004



(3) SCC 684. In this case, eviction of tenant was sought on the ground that the tenant had ceased to occupy the demised premises for a continuous period of 4 months without reasonable cause. In para No. 7, it was held as under:

“7. The terms "possession" and "occupy" are in common parlance used interchangeably. However, in law, possession over a property may amount to holding it as an owner but to occupy is to keep possession of by being present it. The Rent Control Legislations are outcome of paucity of accommodations. Most of the Rent Control Legislations, in force in different states, expect the tenant to occupy the tenancy premises. If he himself ceases to occupy and parts with possession in favour of someone else, it provides a ground for eviction. Similarly, some legislations, provide it as a ground of eviction if the tenant has just ceased to occupy the tenancy premises though he may have continued to retain possession thereof. The scheme of the Haryana Act is also to insist on the tenant remaining in occupation of the premises. Consistently with what has been mutually agreed upon the tenant is expected to make useful use of the property and subject the tenancy premises to any permissible and useful activity by actually being there. To the landlord's plea of the tenant having ceased to occupy the premises it is no answer that the tenant has a right to possess the tenancy premises and he has continued in juridical possession thereof. The Act protects the tenants from eviction and enacts specifically the grounds on the availability whereof the tenant may be directed to be evicted. It is for the landlord to make out a ground for eviction. The burden of proof lies on him.



However, the onus remains shifting. Once the landlord has been able to show that the tenancy premises were not being used for the purpose for which they were let out and the tenant has discontinued such activities in the tenancy premises as would have required the tenant's actually being in the premises, the ground for eviction is made out. The availability of a reasonable cause for ceasing to occupy the premises would obviously be within the knowledge and, at times, within the exclusive knowledge of tenant. Once the premises have been shown by evidence to be not in occupation of the tenant, the pleading of the landlord that such non-user is without reasonable cause has the effect of putting the tenant on notice to plead and prove the availability of reasonable cause for ceasing to occupy the tenancy premises.”

26. Thus, meaning assigned to the terms “possession” and “occupy” has distinct meaning in relation to the provisions of Section 13 of the 1973 Act. The requirement of Section 13 (3) (a) (i) of the 1973 Act, therefore, is that landlord is not occupying another residential/non-residential building in the urban area concerned i.e. landlord is not keeping possession of the premises and using it too by being present in it, as held in Ram Dass case (supra), where possession or occupation of the premises was in issue. Therefore, mere ownership and possession of a premises by the landlord without it being in occupation, will not be of any consequence and cannot bar a landlord from seeking its possession for *bona-fide* personal use.

27. Reverting back to the facts of this case. The moot point before this Court is “whether there is any concealment of material facts as regard occupation



of the premises in the urban area on part of the petitioners, as concluded by learned Appellate Authority, Jhajjar?”

28. Learned Appellate Authority observed that petitioner did not disclose in their petition that he was running shop in remaining part of the demised premises and his son was also doing business in a separate shop in another part of the same building and that petitioner No. 2 was also doing business in Aggarwal Colony, Bahadurgarh in the name of Parsuram Suresh Kumar.

29. To the considered opinion of this Court, learned Appellate Authority, erred in appreciating the evidence and the pleadings. In the plaint, the petitioners have specifically shown and mentioned, while describing the boundaries of the demised Shop No. 25, that in Eastern side, there are godowns of the petitioner and in the Southern side, there is remaining shop of the petitioner and in the North, there is Shop No. 24 and in West, there is Anaj Mandi Road. In replication, the petitioners specifically pleaded that petitioner No. 1 is doing his business of rice and cattle feed in remaining part of Shop No. 25. He denied that his son Ashu is in possession of the remaining part of Shop No. 25 and on oath, as PW1, he testified that in Southern side of shop he is doing business of rice and cattle feed. His son Ashu is doing business of *Kiryana* and sale of sugar from one of the godowns. He is not having independent space/ shop to run the above business. He also deposed that his wife is running a firm in the name of Parsuram Suresh Kumar from a godown, situated in Aggarwal Colony, Bahadurgarh. It is not a case of concealment by petitioner No. 1 regarding his running the business, nor by his son and wife, or the availability of space with them. In **Mohini Devi (supra)**, the Coordinate Bench of this Court after referring to case decisions in **M/s Bhatia Cloth House Vs Dr. Raj Kumar Gupta and another**, 2008 (4)



RCR (Civil) 250, **Dr .S.S Mann Vs A.K Sharma**, 2013 (4) RCR (Civil) 1054 and **Daulat Ram Vs Girdhari Lal**, 1980 (2) RCR (Rent) 108, observed that landlord cannot be non suited for mere non impleading of fact that landlord did not own any property in urban area when no prejudice was shown to caused to the tenant on this account. In **M/s Vishal Sarees and Dresses and another (supra)**, the Coordinate Bench of this Court observed that ambiguity in pleadings if made good in the evidence is the sufficient compliance of the statutory requirement. In **Banwari lal Vs Ram Parkash and another**, 2009 (2) RCR (Rent) 160, it was held that ingredients of Section 13 (3) can be proved in evidence and if it is shown no prejudice is caused to the tenant then the petition is not liable to be rejected. In **Madan Gopal Vs Mam raj**, 1977 (1) SCC 669, Hon'ble the Supreme Court after analysing the pleading in the District Courts are laconic, observed that Court should not scrutinize the pleadings so meticulously in order to non suit the parties in dispute. At the most it is a technical omission, for which the landlord cannot be thrown out, particularly when the technicalities are the handmaid of justice and should not be a hindrance in parting the justice.

30. The petitioner has relied upon the Site Plan (Ex.P1) and categorically depicted the area under the tenancy of the respondents and the area in their possession, where the petitioner No. 1, carries his business. In the Site Plan, the petitioners also depicted the godowns. The respondents, led no evidence or tendered counter site plan, to challenge the credibility of the Site Plan (Ex P1). From the Site Plan (Ex P1), it is explicit that there are two shops, opposite to each other and on the Eastern side, there are godowns and on the Western side, there is '*Katcha Fard*'. The respondents, did not place on record any photographs to show that son of the petitioner, Ashu, is doing business in other separate shop in the



building. The testimonial admission of the petitioner that his son is doing business of sugar and *kiryana* in godown, thus remained unrebutted. A godown, cannot be equated with a shop. The very basis for the petitioners to file eviction petition against the respondents is that the petitioners want to have the premises for their sons to run their own independent business in their own shops.

31. It is not disputed by the respondents that petitioners have two sons. Ashu is married and Rajat is the younger son, has also come of age and can start his own business. The fact that when petitioners filed the eviction petition, one of the son was minor, is hardly of any adverse consequence to the petitioners as they sought eviction of the respondents for the needs of both sons including the future expansion of their needs. Of course, the petitioners have not disclosed about the business done in the name of petitioner No. 2, the wife of petitioner No. 1, under the name of Parsuram Suresh Kumar Firm, in Aggarwal Colony, Bahadurgarh. The petitioner in cross-examination has stated that the said business is done from a godown. Again, no evidence has been led by the respondents, to show that it is not a godown but a full fledged shop. Further more, the requirement of the demised premises has been sought for establishing independent business for their sons. Although questions were put to the petitioner (PW1) and his sons (PW3 and PW5) that Rajat (PW5) helps his mother in doing the business, this fact has been denied by the witnesses. However, this does not dilute the need of the petitioners, to have the demised shop for starting separate and independent business for the sons. Rather, this fact gives impetus to the need of the petitioners to have the demised premises for his sons.

32. The Sale Deeds Ex. R1 to Ex. R5, in favour of petitioner No. 2 and their daughter-in-law, indicate ownership of plots in their names. The requirement



of law under Section 13 (3) (a) (i) of 1973 Act is that landlord is not ‘occupying’ another residential building (which also includes non-residential as well) in the urban area concerned and has not vacated such building without sufficient cause after commencement of the 1949 Act in the said area. The sale deeds are depicting the ownership of plots and not buildings. The requirement of Section 13 (3) (a) (i) of 1973 Act is that landlord is not occupying another residential/non-residential building in the urban area concerned i.e. he/she is not keeping possession of the premises and using it too by being present in it. Mere ownership and possession of a premises by landlord, without it being in occupation will not be of any consequence and cannot bar a landlord from seeking its possession for *bona fide* personal use. The sale deeds, therefore, do not attract the provisions, so as to debar the landlord from seeking possession of building for his own use and occupation.

33. From the statement of the petitioner and his other witnesses, the requirement of the petitioner for his own use and occupation i.e. for settling their children/sons in separate business is writ large on the record and they have proved the same. The law is settled that landlord is the best judge of his needs, the tenant cannot dictate his term or advice the landlord, how to use the demised premises. The landlord is master of his choice in respect of suitability of the premises.

34. This Court is conscious of legal mandate that this Court while in exercise of its revisional power under the Rent Act is entitled to interfere with the findings of fact arrived at by the learned Appellate Authority if the Court finds the findings on question of *bona fide* requirement are perverse and arbitrary. In light of the above discussion, it is held that learned Appellate Authority materially



erred in appreciating the evidence in right prospective and settled position of law and legally faulted in dismissing the petition.

35. The case law cited by the respondents, is distinct from the facts of the present case. In **Shankar Lal case (supra)**, landlord owned two separate shops and had concealed these facts. In **Vinod Kumar case (supra)**, landlord admitted in cross-examination that he did not mention about the alternate shop. The observation made in **Arjun Dass case (supra)** relied by the respondents, rather espoused the cause of the petitioner. In the said case, Coordinate Bench of this Court observed that only requirement under the law for a landlord seeking eviction under Section 13 (3) (a) (i) of the 1973 Act is that he is not in use and occupation of any other premises and if it is so, he is duty bound under law to mention the properties so as to entitle himself for relief of ejectment of tenants.

36. As sequel to the discussion, the present revision petition succeeds and order of the learned Appellate Authority is hereby set aside, resulting into affirmation to the order of eviction passed against the respondents-tenants by learned Rent Controller, Bahadurgarh vide order dated 06.03.2017. The respondents are directed to hand over the vacant possession of demised shop to the appellant-petitioners within two months from this order. No other point raised by the either side.

37. Revision Petition is allowed in above terms.

38. In view of the disposal of the main revision petition, pending applications, if any, also stand disposed of accordingly.

September 02, 2024

pj

(RITU TAGORE)
JUDGE

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