



121

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

CR-2472-2024 (O&M)

Date of Decision : 29.08.2024

Jasmer Singh @ Jasbir Singh

... Petitioner(s)

Versus

Parminder Singh

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sandeep Sharma, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed challenging the orders dated 07.01.2020 and 29.02.2024 passed by the Rent Controller and the Appellate Authority, respectively.

2. Brief facts relevant to the present *lis* are that the landlord-respondent herein filed a petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 for ejectment of the tenant-petitioner herein from shop No.C-3/443, measuring 15'.6" x 17'.6" bounded as North: Buria Road, South: Khem Chand Dhiman etc., and Middle Joint Wall, East: Subhash Coal Depot and Middle Joint Wall and West: Khem Chand etc., and Middle Joint Wall, situated at Buria Road, Jagadhri, within the Municipal Limits of Jagadhri, District Yamuna Nagar. It was averred by the landlord-respondent that the shop in dispute had been purchased from one Chaman Parkash son of Puran Chand vide sale deed dated 17.01.2004 and there was a relationship of landlord and tenant between the parties. When the sale deed was executed an oral settlement took place between the tenant-petitioner and landlord-respondent herein and the rent was enhanced to Rs.4,000/- per month which was paid upto September 2013 and thereafter

the tenant-petitioner herein did not pay a single penny towards the rent. The ejectment petition was filed on the ground of arrears of rent total amounting to Rs.1,44,000/- including house tax. It was further stated that the shop was required by his nephew who is unemployed and is residing with the landlord-respondent. The written statement was filed raising preliminary objections regarding maintainability, non-joinder of necessary parties and concealment of true and material facts. It was further stated that Puran Chand, earlier owner of the shop, had filed a rent petition against the tenant-petitioner on various grounds which was dismissed on 15.07.1987 as such the present petition was not maintainable as the landlord-respondent had purchased the demised premises from the previous owner. On merits, it was averred that no notice was given to the tenant-petitioner regarding purchase of the premises by the landlord-respondent. It was further averred that Puran Chand, previous owner of the shop, had been receiving the rent @ Rs.28/- per month and after his death his son had been accepting the rent @ Rs.28/- per month. It was further averred that the necessary ingredients of *bona fide* necessity were not pleaded in the petition nor the demised premises was required by the landlord-respondent for his own use and occupation. On the basis of the pleadings, the following issues were framed :

1. Whether the respondent is liable to be ejected from the shop in question, on the grounds mentioned in the petition ? OPP
2. Whether the petition is bad for mis-joinder and non-joinder of necessary parties ? OPR
3. Whether the petition is not maintainable ? OPR

4. Whether petitioner has not come to the Court with clean hand and has concealed the true and material facts

? OPR

5. Relief.

3. Since the rent was tendered, the ground of arrears of rent was held to be no longer available. On the ground of *bonafide* necessity, the petition was allowed by the Rent Controller vide order dated 07.01.2020 and the tenant-petitioner was directed to vacate the premises and hand over peaceful possession within two months from the date of passing of the order. Aggrieved by the same, an appeal was preferred by the tenant-petitioner which appeal was dismissed by the Appellate Authority vide order dated 29.02.2024. Hence, the present revision petition.

4. Learned counsel for the tenant-petitioner would contend that the landlord-respondent owns another shop in the urban area, however, the particulars of the said shop were not disclosed. It is further the contention of the learned counsel that a specific question was put to the nephew of the landlord-respondent, for whose personal *bonafide* necessity the eviction was sought, and reliance has been placed on the lines wherein he stated that “*his uncle has a shop and that there is no licence for his shop nor he has applied for any licence*”. The learned counsel would further contend that on the ground of concealment, the petition ought to have been dismissed. In support of his contentions, he has relied upon the judgments of this Court in the cases of **Shankar Lal Vs. Madan Lal & Ors. [2011(1) RCR (Rent) 139]** and **Randhir Singh Rohilla Vs. Rajbir [2015(33) RCR (Civil) 112]**.

5. I have heard the learned counsel for the tenant-petitioner.

6. In the present case the plea of *bonafide* necessity of the nephew was taken by the landlord-respondent. The case set up by the landlord-respondent was that the shop in dispute was required for setting up a business for his nephew who was unemployed and residing with him. The learned counsel for the tenant-petitioner has argued that there was another shop owned by the landlord-respondent which was not pleaded in the ejectment petition and this has been admitted by the nephew of the landlord-respondent and hence the petition ought to have been dismissed. On a query by this Court as to whether the landlord-respondent himself was confronted with the fact that there was another shop owned by him in the urban area, the learned counsel for the tenant-petitioner has candidly admittedly that no such suggestion was put. A faint argument was made by the learned counsel that at the time of the cross-examination of the landlord-respondent the said factum was not to the knowledge of the tenant-petitioner that the landlord-respondent owned another shop and it is only when the cross-examination of the nephew was being conducted that the fact came to their knowledge. A perusal of the cross-examination of the nephew who appeared as PW2 and of the landlord-respondent who appeared as PW1 reveals that the cross-examination of both the witnesses was conducted on 01.07.2019, hence, the argument of the learned counsel that it came to the knowledge of the tenant-petitioner only when the cross-examination of the nephew was being conducted is rejected.

7. The judgments in the cases of **Shankar Lal** (supra) and **Randhir Singh Rohilla** (supra) relied upon by the learned counsel for the tenant-petitioner would also not come to his aid inasmuch as in the present

case there is not an iota of evidence which was led by the tenant-petitioner to show that the landlord-respondent owned any other shop in the urban area. A stray statement in the cross-examination cannot be relied upon to come to a conclusion that the landlord-respondent owned another shop in the urban area which was not disclosed in the ejectment petition especially in view of the fact that the tenant-petitioner chose not to even confront the landlord-respondent with the said suggestion.

8. In view of the above, I do not find any merit in the present petition. Accordingly, the revision petition being devoid of any merit is dismissed. Pending applications, if any, also stand disposed off.

29.08.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO