

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

134

CR-4045-2022 (O&M)
Date of decision: 21.02.2024

MOHAN LAL ..Petitioner

Versus

JASDEV SINGH ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rakesh Chopra, Advocate
for the petitioner.

Mr. Balwinder Singh, Advocate
and Mr. Bhupinder Singh, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is a tenant, who has been ordered to evict the premises by the Appellate Authority, while reversing the judgment passed by the Rent Controller. The respondent-landlord filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the '1949 Act'), seeking eviction of the petitioner from the first floor of commercial premises on the ground that his wife Smt. Manjit Kaur requires the same for opening a boutique. The respondent while contesting the case has submitted that there is no relationship of the landlord and tenant as the petitioner is not Sh. Kirpal Singh's son, who died issueless. The Rent Controller found that although bonafide necessity of the landlord is established, however, he has failed to disclose the fact that he got possession of ground floor of the premises under the orders of the Rent Controller. Thus, the petition was dismissed. It may be noted here that during the pendency of the rent petition, the landlord filed an application for permission

to amend the plaint in order to assert that he is not occupying any other property in the urban area, which was also dismissed by the Rent Controller on the same day when the petitioner was dismissed.

2. The Appellate Authority upon reconsideration of the entire evidence found that the application filed by the landlord for permission to amend the petition in order to incorporate the statutory requirement as provided under Section 13(3)(a)(i) of the 1949 Act was required to be allowed. The Court found that the landlord's mother filed a previous petition seeking eviction of yet another tenant on the ground that his son i.e. the respondent requires the premises, which is being used by the respondent for trading purpose after getting the possession thereof as his mother has died. Thus, the Appellate Authority ordered eviction of the petitioner.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. The learned counsel representing the petitioner has made the following submissions:-

- i. The Appellate Authority has not granted any opportunity to the petitioner to file an amended written statement and lead evidence after the respondent was permitted to amend the petition.
- ii. He further submits that the requirement of respondent's wife is not genuine as the commercial tenanted premises is located in iron market and the premises is not appropriate for running a boutique.

iii. He further submits that the respondent's wife is also a partner in a rolling mill.

iv. In the last, he contends that the respondent and his wife have permanent shifted to Canada.

5. On the other hand, the learned counsel representing the respondent submits that the respondent and his wife went to Canada for temporary purposes in order to solemnize marriage of their daughter and the respondent and his wife have come back on 29.03.2023 and they wish to settle in Mandi Gobindgarh. He further submits that the tenant has no right to dictate terms to the landlord.

6. This Court has considered the submissions of the learned counsel representing the parties.

7. As per Section 13(3)(iii)(a) of the 1949 Act, the landlord while filing the petition is expected to disclose that he is not occupying another building in the urban area concerned or he has not vacated such building without sufficient cause after the commencement of this act. The Rent Controller dismissed the respondent's petition on the ground that he has not disclosed the fact that he has taken possession of ground floor of the commercial premises. An application for permission to amend the rent petition was filed in order to fulfill the requirements of the 1949 Act, which was dismissed. The Appellate Court allowed the same. This amendment has been allowed only to fulfill the statutory requirement. Otherwise, both the parties were aware of the objection and had led evidence.

8. In such circumstances, only a procedural amendment in order to fulfill the statutory requirement was allowed. Such amendments, which do

not need any evidence but are necessitated by requirement of law should not delay the decision of the case.

9. Reliance in this regard can be placed upon the judgment passed in *Life Insurance Corporation of India Vs. Sanjeev builders Private Limited and another, 2022 SCC Online SC 1128.*

10. As regard the second argument of the learned counsel representing the appellant, it may be noted that the petitioner (tenant) has no right to dictate the terms to the landlord. In this case, the landlord claims that the premises is required for the bonafide requirement of his wife, who wants to run her boutique. Even if the property is situated in a market, which is predominantly trading in iron (metal), still there is no prohibition in opening a boutique.

11. As regard the last submissions of the learned counsel representing the appellant, it may be noted that there is a counter affidavit filed by the landlord to the effect that he has come back on 29.03.2023 and wishes to stay in the country.

12. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

13. Dismissed accordingly.

14. All the pending miscellaneous applications, if any, are also disposed of.

February 21st, 2024

Ay

(ANIL KSHETARPAL)
JUDGE

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