

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.2477 of 2014 (O&M)

Reserved on : 21.02.2024

Decided on : 20.03.2024

Manoj Kumar

....Petitioner

VERSUS

Jitender Kumar

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Arpandeeep Narula, Advocate for the petitioner.

Mr. Yagsimant Attri, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. The present revision petition has been preferred by the tenant-petitioner challenging the eviction order dated 15.01.2014 passed by the Appellate Authority, and the order dated 21.10.2011 passed by the Rent Controller with respect to the findings on Issue Nos.2 and 3.

2. The brief facts relevant to the present case are that the landlord-respondent filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 for eviction of the tenant-petitioner on the ground of arrears of rent and bonafide personal necessity of his son. It was pleaded by the landlord-respondent that he was ex-partner/co-owner of M/s Sewak Metal Industries, Jaroda Gate, Jagadhri and was the landlord. The petitioner was a tenant in the demised premises at a monthly rent of Rs.990/-

including house tax and that there existed relationship of landlord and tenant. It was further averred that the tenant-petitioner was in arrears of rent for a period of 12 months w.e.f. 01.12.2006 to 31.11.2007 amounting to Rs.11,880/- besides interest and costs. It was further the case that the landlord-respondent has one son namely Jatin who had completed his education and wanted to start his own business and therefore the demised premises was required by the landlord-respondent on the ground of personal necessity of his son. It was further averred in the petition that the landlord-respondent was not occupying any other shop in the urban area concerned and had not vacated any shop or building in the said urban area without sufficient cause after the commencement of the 1973 Act. Upon notice the tenant-petitioner appeared and filed written statement raising preliminary objections regarding maintainability and no cause of action and that the petition had been filed only to harass the tenant-petitioner and to increase the rent. It was further the case set up that the building No.MCJ-654 consisted of 3 shops and one big gate in front portion and on the back side there were four rooms, four big sheds and one big hall having covered area of 500 square yards which was in possession of the landlord-respondent wherein he was running a factory earlier. Subsequently, he gave the back portion sheds on rent and the landlord-respondent, being a man of quarrelsome nature, got the sheds vacated by harassing the tenants and that the said portion was lying vacant and was in possession of the landlord-respondent. In the front portion one shop was in possession of Pritam Yadav as a tenant against whom the landlord-respondent had filed several petitions for harassing him. It was further the case that the landlord-respondent had also got other

premises in addition to the premises in dispute and that the son of the landlord-respondent had never been seen at Yamuna Nagar and was doing his business outside.

3. On the basis of the pleadings the following issues were framed :

“1. Whether the respondent is liable to be ejected from the suit property ? OPP

2. Whether the petition is not maintainable ? OPR

3. Whether petitioner has no cause of action to file the present petition ? OPD

4. Relief.”

4. The Rent Controller held that the landlord-respondent had failed to establish the ground for eviction of the tenant-petitioner from the premises in dispute. The Issue Nos.2 and 3 were decided against the tenant-petitioner-tenant and in favour of the landlord-respondent. The ejectment petition was dismissed. An appeal was preferred by the landlord-respondent and cross-objections were preferred by the tenant-petitioner. The said appeal was allowed by the Appellate Authority vide order dated 15.01.2014 and the cross-objections filed by the tenant-petitioner were dismissed. Hence, the present revision petition by the tenant-petitioner.

5. Learned counsel for the tenant-petitioner would contend that the landlord-respondent has sufficient vacant space to start business for his son. It is further the contention that the Rent Controller had dismissed the ejectment petition and the appeal has erroneously been allowed by the Appellate Authority as there is no reason forthcoming as to why part of the building which is in possession of the landlord-respondent cannot be used for his son's business. It is further the contention that the certificate from the

Employment Exchange could not have been relied upon to believe that the son of the landlord-respondent was unemployed. Learned counsel for the tenant-petitioner would further contend that there are no details of the business that the son of the landlord-respondent wanted to start and hence the order passed by the Appellate Authority deserves to be set aside. Learned counsel would further contend that issue Nos.2 and 3 were wrongly decided by the Rent Controller and the Appellate Authority as the landlord-respondent was not the competent person to file the eviction petition as the property in dispute was of the firm and personal necessity of his son in his personal capacity cannot be treated to be personal necessity of the firm.

6. *Per contra*, learned counsel for the landlord-respondent would contend that the Appellate Authority has rightly held that the landlord-respondent is the best judge of his needs and cannot be told as to how the property in his possession is to be utilized. It is further the contention that the firm was dissolved and that the relationship of landlord and tenant was admitted by the tenant-petitioner in his written statement and in view thereof no challenge could be made to the maintainability of the ejectment petition.

7. I have heard the learned counsel for the parties.

8. In the present case the argument of the learned counsel for the tenant-petitioner that there are other vacant shops in possession of the landlord-respondent and therefore the Appellate Authority ought to have dismissed the appeal deserves to be rejected. A landlord is the best judge of his needs. The son of the landlord-respondent also stepped into the witness box and it is come on the record that he wanted to start his business. Merely because there are other shops in the building which are available

with the landlord-respondent would not dis-entitle him from filing an ejectment petition. It has come in the evidence of the landlord-respondent that the space available at the back is not fit for opening a shop for spare parts. Once it has been proved that the son of the landlord-respondent was not in possession of any other shop and was not running his business anywhere else, it is for the landlord-respondent to decide what would be the most appropriate place for him to prefer his son to start his business. The second argument of the learned counsel for the tenant-petitioner is that the employment certificate from the employment exchange could not be relied upon also deserves to be rejected. There is nothing on the record to show that the son of the landlord-respondent was either employed or was doing any business. Suffice it to say that both the father and son had stepped into the witness box and nothing could be elicited from their cross-examination to show that the son of the landlord-respondent was gainfully employed. The third argument of the learned counsel that the tenant-petitioner that the ejectment petition was not maintainable is also without any basis and was rightly rejected by the Rent Controller as well as the Appellate Authority. Both the authorities concurrently held that the tenant-petitioner had admitted in his written statement the relationship of landlord and tenant. The tenant-petitioner had also admitted in his written statement in para No.2 that the landlord-respondent had been receiving rent from him. The landlord-respondent had also proved that he was the co-owner of the premises in dispute. The learned counsel for the tenant-petitioner has not been able to show as to how in view of the admissions made by the tenant-petitioner the ejectment petition was not maintainable. No other point has been argued.

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

**(ALKA SARIN)
JUDGE**

20.03.2024
Ankur

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