

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CR-7423-2023 (O&M)

Date of Decision : October 14, 2024

Ajay Goel Petitioner
vs.
Manjit Singh Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Mandeep Singh Sachdev, Advocate
for the petitioner.

Mr. Kanwal Goel, Advocate
for the caveator-respondent.

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GURBIR SINGH, J. :

1. Challenge in the present revision petition is to the order dated 27.04.2018, passed by learned Rent Controller, Jalandhar, whereby Ejectment Petition filed by the respondent under Section 13 of the East Punjab Urban Rent Restriction Act (as amended up to date) (for brevity – the Act), for ejectment of the petitioner from the shop (as detailed in head note of the plaint) in question, has been allowed. Further challenge is to the order dated 11.10.2023, passed by learned Appellate Authority, Jalandhar, whereby appeal filed by the petitioner has been dismissed and the aforesaid order of learned Rent Controller has been affirmed.
2. The parties, hereinafter, are being addressed as per their status in the Ejectment Petition.
3. Brief facts of the case, as culled out from the paper-book, are that

the respondent/landlord filed a petition for ejectment of the petitioner/tenant from the shop in question on various grounds. It was pleaded by the landlord that there were three shops and a residential house on the property, as detailed in the head note of the petition. Out of those three shops, one shop was let out to the tenant, who was supposed to pay monthly rent and increased rent from time to time, as agreed. The tenant was in arrears of rent since July 2012. He, without consent of the landlord, has also made additions and alterations in the demised premises. The landlord bonafidely required the shop in question for his own use and occupation as his son wanted to convert his three shops into a showroom to start business of computer accessories and mobile phones. On the other hand, the tenant had got his own commercial complex on the road and many other commercial properties in the nearby areas. Apart from all this, the tenant was stated to be a source of nuisance to the landlord as he used to quarrel and create scene on the demand of rent by the landlord. It was also alleged that the tenant was creating troubles on various issues for the landlord on daily basis. So, Ejectment Petition was filed on all these grounds.

4. After hearing learned counsel for the parties and appreciating the evidence on record, the learned Rent Controller allowed the Ejectment Petition with costs, vide impugned order dated 27.04.2018 on the ground of personal necessity only. The appeal filed against the ejectment order was dismissed by the Appellate Authority on 11.10.2023.

5. Learned counsel for the tenant has submitted that during pendency of the appeal filed by the petitioner, he also filed application for framing of fresh issues and for remanding the case or in the alternative, for

seeking report from the Trial Court. Another application was also moved by the tenant for amendment of his written reply to the amended petition but both these applications were dismissed by the learned Appellate Authority.

6. Learned counsel for the tenant has further argued that impugned orders are not sustainable and are liable to be set aside because the showroom, as desired by the landlord, cannot be opened from the demised premises and three shops of the landlord cannot be converted into one showroom. As per building bye-laws, no further additional construction can be raised over the property in question. It has also been submitted that basic ingredients of personal necessity have not been proved on record because neither son of the landlord is dependent upon his father, nor he has any intention to open the business in the demised premises. The shop in question was rented out to M/s Bhagwati Trading Co. which is a partnership concern and had been paying rent to the landlord. So, the landlord has failed to establish the relationship of landlord and tenant between the parties and has no locus standi to file the Ejectment Petition because the necessary party was M/s Bhagwati Trading Co. which has not been impleaded as party in the Ejectment Petition. By way of amendment, the petitioner wants to change the entire defence. He wants to take the plea that M/s Bhagwati Trading Co. is a tenant, which is a partnership firm and the rent agreement was made with M/s Bhagwati Trading Co. The rent was being paid to Smt. Darshan Kaur by M/s Bhagwati Trading Co. The amendment of written reply to the amended petition is necessary for just decision of the case. The petitioner was not aware about the said status. No issue was framed that M/s Bhagwati Trading Co. was tenant in property in question and Ajay Goel is not a tenant

in his personal capacity. The shop in question was taken on rent from Mohinder Singh, brother of Manjit Singh. It has not been proved on record as how and when the respondent himself became owner of the shop. No sale deed has been proved on record in this regard.

7. Reliance has been placed on judgment of Hon'ble Supreme Court in the case of **Harshavardhan Chokkani vs. Bhupendra N. Patel** reported as **2002(1) R.C.R.(Rent) 349** and also on judgment of this Court in **Dass Kumar and others vs. Tilak Raj and another** reported as **2009(2) R.C.R. (Rent) 229.**

8. I have heard learned counsel for the petitioner at length and perused the case file.

9. The petitioner/tenant has mainly challenged the judgments of the Courts below submitting that as per the building bye-laws pertaining to the property in question, no further construction can be raised thereon. The requirement of the landlord is three shops and he wants to convert the same into a showroom but the respondent/landlord has already lost litigation with regard to one out of three shops. So, these shops cannot be converted into a big showroom. The landlord is a retired man and there is no explanation why he would open the showroom at this stage after retirement. The son of respondent/landlord is settled in Noida and is having a huge package. So, he is not supposed to start a new business. There is no relationship of landlord and tenant between the parties, since premises in question was taken on rent by M/s Bhagwati Trading Co. - a partnership concern and Ajay Goel was its partner.

10. Para nos.1 and 2 of the petition are as under :-

- “1. That the petitioner is the owner and the landlord of the property which is having Property No.B-I-823A, Mohalla Aman Nagar, Tanda Road, Opp.KMV College, Jalandhar. The above said property is having three shops and residential house. Out of the three shops, one has been given on rent @ Rs.750/- per month to the respondent. The above said shop shown red in the site plan attached and which has been fully detailed and described in the headnote of the petition. This shop has been given on rent to the respondent on 01.01.1993. The respondent no.1 has to pay increase in rent from time to time as agreed between the parties. The respondent no.1 has been making the payment of rent with increase to the petitioner from time to time.
2. That the respondent is tenant in the shop in question at a monthly rent of Rs.1225/- apart from payment of share of house tax and other taxes.”

11. The reply to para nos.1 and 2 is as under :-

- “1. That Para No.1 of the petition is wrong and denied as alleged. The property was given on rent by Mohinder Singh, brother of the petitioner and he was receiving the rent. Later on at the instance of the petitioner that his wife is the owner and the rent be paid in the name of Smt.Darshan Kaur, his wife, the respondent used to issue the cheques in the name of Smt.Darshan Kaur wife of the petitioner for payment of rent. The site plan attached and the topographical description given is wrong and incorrect. It is

wrong that the premises was given on rent on 01.01.1993. There was no agreement to pay any increased rent. However, by mutual consent, the rent was increased by the respondent from time to time but without any time frame.

2. *That Para No.2 of the petition is wrong and denied. The rate of rent is Rs.1,125/- per month. There was no agreement to pay any house tax or any other tax by the respondent."*

12. In the preliminary objection no.3 of the written statement, the petitioner/tenant has admitted that the property was taken on rent by him initially from Mohinder Singh – brother of the respondent/landlord, in the year 1991 @ Rs.600/- per month. Later on, the rent was being paid to the landlord at his instance. Although tenant also took a preliminary objection that the petition is bad for mis-joinder of firm M/s Bhagwati Trading Co. as a party but it is not the pleaded case of the petitioner/tenant that he is not the tenant and property was taken by the partnership firm. He has clearly admitted that the property in question was taken on rent by him. In case **P. John Chandy and Company (P) Ltd. vs. John P. Thomas** reported as **2002(5) SCC 90**, it has been held by Hon'ble Supreme Court as under :-

"13. Learned counsel for the respondent has placed reliance upon a decision of this court reported in AIR 1988 S.C. 852 Hiralal Kapur versus Prabhu Choudhury. The tenant in this case seems to have sub-let a part of his tenancy to a Trust which started its activities from the premises of which landlord may also have been aware. The tenant had also started paying the rent by two cheques one in his name and another cheque of the Trust. The rent so tendered was duly

accepted by the landlord. In some correspondence which took place between the tenant and the landlord, the Trust was not accepted as a sub-tenant. It was held by this Court that merely by the fact that the cheque of the Trust was being accepted as a part of the amount of rent and the fact that landlord may have the knowledge of the fact that the Trust was using part of the premises would not lead to any implied inference or consent of sub-lease in favour of the sub-tenant. For this conclusion no doubt the letters of the landlord had also been referred to by which sub-tenancy was not accepted by the landlord yet the fact remains that Court did not come to the conclusion that that before writing of those letters it was to be taken a case of sub-tenancy by conduct. The fact is that knowledge of possession or a part of the accommodation with the Trust and the acceptance of the part of the rent by cheque from the Trust were not considered conclusive of an inference of consent for sub-tenancy. Yet another case relied upon by the learned counsel for the respondent is reported in AIR 1996 S.C. 2361 equivalent to 1996 (11) SCC 728- [Ram Saran versus Pyare Lal and another](#). In this case also the tenant surrendered his tenancy rights in favour of a registered Society without consent of the landlord. The landlord had also started accepting the rent tendered by the tenant in the name of the registered society. It was held that no inference of authorised sub-tenancy could be drawn nor inference of implied consent and it was held that the landlord was not estopped from seeking eviction on the ground of unauthorised sub-letting. The conduct of the landlord in accepting the rent from the society was held to be of no consequence. We have

already observed earlier that the inference drawn from findings of fact is a legal question. It would not amount to interfering or substituting the finding of fact by the revisional court. Hence the decision in the case of Ubaiba (supra) relied upon by the learned counsel for the appellant would not be of any assistance to it.”

13. In case **Harshavardhan Chokkani** (*supra*), Hon’ble Supreme Court held that a person does not become tenant by merely paying the rent. The relevant para no.6 of the said judgment is as under :-

“6. It is clear that the question who the tenant of the premises is, has been in issue and has fallen for consideration at all the stages of the case. Therefore, the High Court is not correct in proceeding on the assumption that the point was not put in issue. In regard to the terms of the rental agreement between the appellant and the erstwhile landlady, it is true that the appellant was permitted to carry on business of a partnership consisting of himself and members of his family but there exists a clear distinction between an individual-tenant carrying on a business of partnership in the premises and a partnership firm being the tenant of the premises. Granting permission to the appellant to carry on partnership business does not per se foreclose the question whether the partnership firm is the tenant of the premises. It is true that by mere paying the rent, a person does not become the tenant and that fact, without anything more, will not be the determinative factor to hold that the prayer of the rent is the tenant because more often than not an agent, a servant or a family member of the tenant also pay the rent for the tenant. Even before the purchase of the premises by the respondents the firm was paying the

rent to their vendor, receipts for the rent were being issued in favour of the firm by her. By the conduct of the parties - the firm and the vender of the respondents - the firm had already become the tenant of the premises before purchase of the said building. This fact explains as to why the attornment of tenancy of the firm and not of the appellant was made in favour of the respondents. Even after the purchase of the premises by the respondents, they continued to receive the rent of the premises regularly from and issue receipts in favour of the firm. It was nobody's case that the firm was the sub-tenant as such not filing eviction petition on the ground of sub-letting is an extraneous factor.”

14. In the case in hand, there is no document to show that the property was taken on rent by the partnership firm. Form-A and Form-C have not been proved during trial. The account statements have also not been proved. The petitioner has filed an application i.e. **C.M.No.624-C-II-2024** to place on record the documents Annexures P-7 to P-10, wherein Annexure P-7 is the account statement of concerned firm i.e. M/s Bhagwati Trading Co., showing that the account was opened on 10.07.2021. Status of the party is to be seen on the day of filing the petition. No additional evidence can be led in this manner in the revision petition. So, these documents cannot be allowed to be brought on record. Since it is established that there was relationship of landlord and tenant between the parties, so the amendment sought was not necessary and application was filed to prolong the matter. A person who is working knows whether he is working in the individual capacity or is partner of the partnership firm. Simply saying that the petitioner was not having knowledge that the property was taken on rent by

M/s Bhagwati Trading Co. is an after-thought version and cannot be accepted. No amendment can be allowed on this ground. The parties have led their evidence as per their pleadings and there is no need to frame fresh issues. Both the applications, which were filed before the Appellate Court, have been rightly dismissed by the learned Appellate Court.

15. The law is well settled that a pure finding of fact, unless and until perverse and opposed to the evidence on record, cannot be interfered with, by exercising revisional jurisdiction.

16. In case titled Vaneet Jain Vs. Jagjeet Singh reported as 2000(5) SCC 1, Hon'ble Supreme Court discussed the scope of the revisional power of the High Court. The matter had arisen out of the ejectment petition filed under Section 13 of the Haryana Urban Control of Rent and Eviction Act, 1973. Hon'ble Supreme Court referred to sub-Section (6) of Section 15 of the Act which confers the revisional jurisdiction upon the High Court and which reads as under :-

“4. Sub-section (6) of Section 15 of the Act empowers the High Court to exercise its revisional jurisdiction for the purpose of satisfying itself if an order passed by the Rent Controller or the appellate authority is in accordance with law. The question that arises for consideration is whether the High Court in its revisional jurisdiction can reassess or re-evaluate the evidence only to come to a different finding than what has been recorded by the Court below. This Court in the case of Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta (1999 (6) SCC 222) held, that the High Court cannot enter into appreciation or re-appreciation of evidence merely because it is inclined

to take a different view of the facts as if it were a court of facts. However, the High Court is obliged to test the order of the Rent Controller on the touchstone of whether such an order is in accordance with law. For that limited purpose the High Court would be justified in reappraising the evidence. In Sarla Ahuja v. United India Insurance Co. Ltd., 1998 (8) SCC 119, it was held that the High Court while exercising the jurisdiction can reappraise the evidence only for a limited purpose for ascertaining as to whether the conclusion arrived at by the fact-finding court is wholly unreasonable. 5. A perusal of sub-section (6) of Section 15 of the Act shows that the power of the High Court to revise an order is not an appellate power, but it is also true that it is not akin to power exercisable under Section 115 of the Code of Civil Procedure, 1908. It is no doubt true that the High Court would be justified in interfering with the order passed by the appellate authority if the legality or propriety of such order demands such interference. We are, therefore, of the view that it is not permissible for the High Court to reassess or reappraise the evidence to arrive at a finding contrary to the finding of fact recorded by the Court below.....”

[underlined portion emphasised by this court]

17. Yet another case titled Ajit Singh and another Vs. Jeet Ram and another, 2008(4) RCR (Civil) 390, reached before Hon'ble Supreme Court out of the proceedings of eviction filed under East Punjab Urban Rent Restriction Act, 1949 (like the present case), wherein also it has been held by Hon'ble Supreme Court that a finding of fact as recorded by the Appellate

Authority on the question of bonafide requirement of the demised shop cannot be interfered with by the High Court. The High Court under its revisional jurisdiction could have interfered with such findings of fact arrived at by the Appellate Authority only if the High Court had found that the finding of the Appellate Authority on the question of bonafide requirement was either perverse or arbitrary.

18. The legal position as explained above make it clear that :

- The revisional power of the High Court under Section 15(6) of the Rent Act is not appellate power and so, the high court cannot reappreciate the evidence on record, whether oral or documentary only because it is inclined to take a different view of facts as it were a court of facts.
- The High Court can interfere with the findings of fact arrived at by the Rent Controller/ Appellate Authority, only if it finds that the said finding on the question of bonafide requirement is either perverse or arbitrary, or there is illegality or perversity of such a nature that it demands interference.

19. The landlord is the best judge of his requirements. The tenant cannot dictate to the landlord whether he can run the business or not.

20. In **Balbir Kaur Vs. Roop Lal, 2012 (1) RCR (Civil) 279**, the landlord was a reputed businessman having business in various countries. The landlord sought eviction of the tenant from the ground floor of the shop-cum-office at Chandigarh to start a big departmental store of world repute, for which the landlord had the financial capacity. It was held by this Court

expand his business. If the landlord asserts that he requires a tenanted premises to expand his business, his need must be presumed as bonafide. Rent Controller shall not proceed to presume that alleged need is not bonafide. It is not open to the Rent Controller to say that landlords are already having business in different countries and cities and are well settled in their lives and hence they do not require demised premises for setting up departmental store of world repute in Chandigarh.

21. Similar view was taken by this Court in M/s Satpal Vijay Kumar Vs. Sushil Kumar, 2011 (2) RCR (Civil) 82. In Madho Ram Garg Vs. Baldev Singh Bath and another, 2008(3) RCR (Civil) 286, the landlord wanted shop for business. This Court went to the extent in holding that it is not part of the Court's duty to examine as to whether the business to be set up would be successful or not in the tenanted premises. The success or otherwise of a proposed business lies in the realm of speculation and the Courts abjure speculative conclusions. The choice of the premises, the nature or the extent thereof rest solely with the landlord.

22. Since the respondent requires the premises to start the business by him and his son, so, non-examination of his son is of no consequence. As per version of the tenant, son of landlord is having good salary package. A person having good salary package always intends to start his own business. Since respondent/landlord is a retired person and there is nothing on the file to show that he is not fit to start the business, so, the Courts below have rightly held that requirement of the landlord is bona fide.

23. In view of the above discussion, it is clear that well-reasoned judgments have been passed by the Courts below. No ground is made out to

interfere in the same. Accordingly, the present revision petition is dismissed. The petitioner/tenant is given two months’ time to make his arrangements and to vacate the demised premises.

24. Pending applications, if any, shall stand disposed of along with this judgment.

October 14, 2024
monika

(GURBIR SINGH)
JUDGE

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