

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.129

Case No. : CR-7510-2023 (O&M)

Date of Decision : January 18, 2024

Balraj Kumar Verma and another Petitioners
vs.

Harvinder Singh and others Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Dinesh Malhotra, Advocate
and Mr. Saksham Malhotra, Advocate
for the petitioners.

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GURBIR SINGH, J. :

1. Challenge in the present revision petition is to the order dated 30.10.2023 (Annexure P-4), passed by learned Rent Controller, Chandigarh, whereby application moved by the petitioners for appointment of Local Commissioner has been dismissed.

2. The brief facts of the case, as culled out from the paper-book, are that the respondents have filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (extended to UT, Chandigarh vide Act No.54 of 1974 – as applicable to UT, Chandigarh) (hereinafter referred to as – the Act), for ejectment of the petitioners, who are their tenants, from the tenanted premises, on the ground of personal necessity. The petitioners contested the petition. During pendency of the petition, the petitioners moved an application for appointment of Local Commissioner stating therein that the respondents had recently made various changes over the

ground floor in so much so that they have constructed the latrine-cum-bathroom besides kitchen on the ground floor of the office in question, knowing fully well that the petitioners are running trade of electronics goods there and it might cause harm/damage to the goods belonging to the petitioners. It was further stated in the application that latrine and bathroom were now constructed at a place away from the original place where the same were existing earlier as now, same had been shifted below the stairs. The material changes have been made by the landlord during pendency of the petition with a view to harass the petitioners/tenants.

3. Learned counsel for the petitioners has argued that appointment of Local Commissioner is necessary to clarify the subject matter in controversy and intentions of the respondents. The petitioners have been using the aforesaid latrine-cum-bathroom since inception of tenancy and same can be determined only by way of spot inspection. It has further been submitted that the said portions now raised and shifted to different places are in sole occupation of the respondents and petitioner do not have any approach to the same. Reliance has been placed on judgment of **Allahabad High Court in Remco Industrial Workers House Building Coop. Society vs. Lakshmeesha M. and others** reported as **(2003) 11 SCC 666**.

4. Learned counsel for the petitioners has further argued that the learned Rent Controller failed to appreciate that the aforesaid changes led to denial of opportunity to the petitioners to use toilet and bathroom. Reliance has been placed on judgment of this Court in case **Balwinder Singh and another vs. Sukhjinder Singh Namberdar and Another** reported as

2018(1) Law Herald 911.

5. I have heard the arguments advanced by learned counsel for the petitioners/tenants and perused the case file.

6. The ejectment of petitioners/tenants has been sought by respondents/landlords on the ground of personal necessity. The petitioners are tenant in the front portion measuring about 22 feet x 42 feet i.e. 924 sq. ft. (approx.) on the ground floor of Quite Office No.13, Sector 35-A, Chandigarh and the remaining portion of ground floor is with the other party. The petitioners want to get a Local Commissioner appointed for bringing on record that latrine-cum-bathroom has been constructed at some other place in order to harass the petitioners as now, the petitioners are not able to use the same whereas earlier, they were using it since inception of tenancy.

7. This Court is of the view that even if local inspection is conducted and knowledge about the aforesaid fact is collected, it would not help the Rent Controller to decide the issue of ejectment of tenants on the ground of bona fide requirement of landlord. If the petitioners have been deprived of amenities, which they were enjoying earlier, then the petitioners have efficacious remedy to move separate application as per provisions of Section 10 of the Act. The fact, which is not necessary for just decision of the case, cannot be allowed to be brought on record. No doubt, Commission can be issued for spot inspection, but only if that inspection is necessary for just decision of the case. The authorities cited by the petitioners are of no help to the petitioners. A lawful order has been passed by the learned Rent Controller, which does not call for any interference at the hands of this Court.

8. As a sequel of above discussion, the present revision petition is devoid of any merit and the same is accordingly dismissed in limine.
9. Pending applications, if any, shall stand disposed of along with this judgment.

January 18, 2024
monika

(GURBIR SINGH)
JUDGE

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