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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(124)

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Date of Decision: - 12.12.2024

Ram Kumar

....Petitioner

Versus

Satish Kumar

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sandeep Berwal, Advocate,
for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Challenge in the present revision petition is to the judgment dated 15.11.2017 vide which the petition filed by the respondent-landlord under Section 13 of the Haryana Rent Act of 1973 had been allowed by the Rent Controller, Kaithal on the ground of bona fide necessity and the petitioner had been directed to hand over the vacant possession of the tenanted premises in question within a period of two months. Challenge is also to the judgment dated 31.07.2024 vide which the appeal filed by the petitioner had been dismissed by the Appellate Authority. It would be relevant to note that in the said appeal, the cross-objections of the respondent had been allowed, however, no separate revision has been filed to challenge the same.

2. Learned counsel for the petitioner has referred to the observations made by the 1st Appellate Authority in para 24 of its



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judgment and has submitted that the rent deed dated 12.01.2000 relied upon by the landlord had been tampered with, inasmuch as, instead of 15% increase in the rent after every three years the said document contains 45% increase after every three years and has submitted that in order to prove the said interpolation, the petitioner had examined a handwriting expert Shamsheer Singh Malik (RW-3) who had given the opinion that in the rent note dated 12.01.2000 there was an increase of 15% which later on was converted into 45% and the counsel for the petitioner has thus submitted that the 1st Appellate Authority had taken into consideration the said aspect and the evidence of the handwriting expert. It is submitted that since it had been *prima facie* found that there was interpolation done by the respondent-landlord, thus, his bona fides are questionable and, therefore, the eviction order passed on the ground of bona fide requirement in favour of the respondent-landlord is unsustainable and the impugned judgments deserves to be set aside on the said ground alone.

3. This Court has heard learned counsel for the petitioner and has perused the paper-book and is of the opinion that the impugned order dated 31.07.2024 passed by the 1st Appellate Authority is in accordance with law and deserves to be upheld and the present revision petition is meritless and deserves to be dismissed for the reasons detailed hereinafter.

4. Brief facts of the present case are that the respondent-landlord had filed an ejectment petition against the present petitioner with



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respect to shop bearing MCK No.340/4 bounded with specific boundaries, which was shown in red colour in the site plan. It was averred by the respondent-landlord that father of the respondent-landlord and one Madan Lal had purchased a plot measuring 61.62 sq. yards with specific boundaries and after the purchase of the said plot, the landlord's father and the said Madan Lal had raised construction in the shape of shop mark A, which was allotted MCK No.340(1)/4, and the other shop mark B was allotted 340/4 by Municipal Committee, Kaithal and as per the partition between the father of the landlord and the said Madan Lal, the shop mark A fell to the share of said Madan Lal and shop mark B fell to the share of the father of the landlord and thereafter, the said Madan Lal had sold shop mark A to the present petitioner. It was further averred that the father of the landlord, who was the owner of the premises in question, had given the shop on rent to the tenant vide rent note dated 12.01.2000 and that after the death of father of the landlord, the landlord was nominated as his legal heir vide registered Will No.161/3 dated 07.01.2003 and thus, the present respondent became the owner and landlord of the premises in question and thus, he had *locus standi* to file the said ejectment petition.

5. The respondent-landlord had prayed for eviction of the present petitioner on three grounds. The first being arrears of rent which as per the case of the respondent-landlord was due to him for a period of three years prior to filing of the ejectment petition. The second ground raised by the respondent-landlord was that of personal necessity as per which it was pleaded that he had been doing the business of oil bye

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product under the name and style of M/s Abhinav Traders in the shop owned and possessed by the respondent-landlord, which was opposite Ashoka Cinema, at Ashoka Cinema Road, Kaithal and that the wife of the respondent had also been doing the business of sale of Ghee, Sugar etc. under the name and style of M/s Hem Raj Satish Kumar in the same shop as that of the respondent-landlord and that the said business had been growing day by day and it had become impossible for the wife of the respondent-landlord to run her business in the same shop and as such the tenanted premises was required for running the business of wife of the respondent-landlord and the same was very much necessary for the welfare of the family of the respondent-landlord, who had two school going children. The third ground for eviction was that the present petitioner was already in possession of sufficient space and thus, he did not need the tenanted premises. It was further averred that the respondent-landlord was in possession of only the shop in which he was doing his business at Ashoka Cinema Road and was not in possession of any other premises.

6. In the written statement filed by the present petitioner, in para 3, on merits, it was admitted by the petitioner that the tenanted premises had been taken from the father of the present respondent, who was the owner of the tenanted premises. The factum of the present petitioner being in possession of another shop was also not disputed and in para No.6(c) of the reply, it was averred by the petitioner that the said shop was not sufficient to meet out the requirements of furniture business.



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The execution of the rent note dated 12.01.2000 was not disputed but it was the stand of the present petitioner that as per the same, the enhancement of rent was 15% after every three years and not 45%.

7. The Rent Controller framed the following issues in the present case:-

- “1. *Whether the respondent is liable to be evicted from the tenanted premises in dispute on the grounds mentioned in para no.6 of the petition?OPP*
2. *Whether the petition is not maintainable?OPR*
3. *Whether the petitioner has concealed the true and material facts from the court?OPR*
4. *Whether the petitioner has no cause of action to file the petition?OPR*
5. *Relief.”*

8. Under Issue No.1 it was observed by the Rent Controller that the relationship between the petitioner and the respondent was not in dispute and that the plea raised by the respondent-landlord for eviction on the ground of personal necessity was genuine and bona fide. It was observed that the respondent had examined himself as PW-1 who had reiterated the necessity of taking the tenanted premises for running the business of Ghee and Sugar of his wife and for the welfare of his family. It was further observed that even the wife of the present respondent had been examined as PW-5 and she had also specifically stated that she wanted to run the business of Ghee and Sugar in the tenanted premises. The Rent Controller also took into consideration the various judgments of this Court in which it has been specifically held that the landlord is the

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best judge to decide which premises is suitable for his requirement and that the version of the landlord as projected, should be accepted as genuine, unless the tenant shows that the landlord's need is not bona fide and that further it is not for the tenant to dictate the terms to the landlord. Thus, on the ground of bona fide requirement, the eviction order was passed. It was also noted that under Issues No.2 to 4 the onus to prove was upon the petitioner/tenant which issues had not been pressed and thus, the said issues were disposed of as having not been pressed. It would be relevant to note that the Rent Controller although had passed the order of eviction but on the aspect of arrears of rent as well as on the aspect of the present petitioner having sufficient space had not accepted the plea of the landlord and had rejected the said two grounds.

9. The present petitioner filed an appeal before the Appellate Authority. Even the landlord had filed cross-objections with respect to the findings of the Rent Controller on the aspects of the present petitioner/tenant being in arrears of rent and having sufficient space with him. The Appellate Authority vide order dated 31.07.2024 upheld the ground of personal necessity in favour of the landlord and while doing so, considered in detail the evidence and documents on record and also found that it was proved on record that the respondent-landlord was proprietor of M/s Abhinav Traders since 27.12.1995 and his wife was the proprietor of firm M/s Hem Raj Satish Kumar since 05.07.2007 and the PAN and TIN number were different and the documents regarding the same had been duly proved. It was further observed that the ejectment petition had

not been filed immediately after the wife had become the sole proprietor of firm M/s Hem Raj Satish Kumar, rather, the same had been filed after a period of six years, inasmuch as, the firm was registered on 05.07.2007, whereas, the ejectment petition was filed on 08.07.2013. It was observed that the requirement of the landlord was genuine and bona fide and there was nothing to show that the said ground for ejectment was not made out. Even before this Court, the finding on the said aspect could not be shown to be either perverse or illegal.

10. The Appellate Authority also accepted the cross-objection filed by the landlord on both the counts. With respect to the present petitioner having sufficient space to carry on his business, the Appellate Authority after considering the documents on record made the following observations in paras No.29, 30 and 31, the relevant portion of which are reproduced herein under: -

“29. *Following is the table of the adjoining shops/space obtained by tenant.*

<i>Deeds</i>	<i>Exhibits</i>	<i>Area</i>
<i>Release deed No.7566/1 dated 23.02.2016</i>	<i>Ex.PW7/A</i>	<i>45.6 Sq. Yards</i>
<i>Sale deed No.2477/1 dated 20.07.1999</i>	<i>Ex.PW7/B</i>	<i>45.6 Sq. Yards</i>
<i>Sale deed No.2381/1 dated 10.9.1997</i>	<i>Ex.PW7/D</i>	<i>31 Sq. Yards</i>
<i>Sale deed No.4305/1 dated 10.02.1998</i>	<i>Ex.PW7/E</i>	<i>60 Sq. Yards</i>

30. *The tenant had his own shop i.e. about 30.81 Sq. Yards adjacent to the shop of the landlord, which was also 30.81 Sq. Yards, which is taken on rent by the tenant and after taking the said premises on rent tenant had acquired adjacent property vide release deed dated 23.02.2016 Ex.PW7/A. **This shows that now the tenant is having sufficient space to carry out his business.***

31. *From the above discussed testimony, it appears that adjacent to the tenanted premises, tenant has become the owner of certain properties and now he does not wish to part with the tenanted premises.....”*

11. From the above, it is apparent that the Appellate Authority found that the petitioner had sufficient space to carry on his business and he was purposely holding onto the tenanted premises. The said finding has also not shown to be perverse or illegal before this Court.

12. The Appellate Authority even on the aspect of arrears of rent had made the following observations in paras No.25 and 26:-

“25. Rent table calculated as per the admission of tenant himself is as follows:

<i>Year</i>	<i>Increment</i>	<i>Rent</i>
<i>2003</i>	<i>15% of 1750/- i.e. Rs.262/-</i>	<i>Rs.1750/- + 262/- = 2012/-</i>
<i>2006</i>	<i>15% of 2012/- i.e. Rs.302/-</i>	<i>Rs.2012/- + 302/- = 2314/-</i>
<i>2009</i>	<i>15% of 2314/- i.e. Rs.347/-</i>	<i>Rs.2314/- + 347/- = 2661/-</i>
<i>2012</i>	<i>15% of 2661/- i.e. Rs.399/-</i>	<i>Rs.2661/- + 399/- = 3060/-</i>

26. As per the Schedule mentioned above the respondent/tenant was liable to pay the last rent Rs.3060/- per month but the respondent/tenant was paying rent Rs. 2,300/- per month as rent instead of Rs. 3,060/-. In these circumstances, the respondent/tenant was not paying the rent as per the rent note dated 12.01.2000 and as per the admission of the respondent/tenant in his pleadings. The learned rent controller has not discussed this aspect of rent in its judgment.

Therefore, the objection petition ground No.1 is answered in favour of objector i.e. landlord.”

13. A perusal of the above finding would show that it was rightly observed by the Appellate Authority that the factum of there being 15% increase in the rent was not disputed and thus, the Rent Controller was in

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error in not taking into consideration the fact that even in case 15% increase is taken into consideration the last payable rent was Rs.3060/- per month and that the present petitioner/tenant had been paying only Rs.2300/- per month and thus, was in arrears also. The said finding of the Appellate Authority is also in accordance with law. The argument raised on behalf of learned counsel for the petitioner to the effect that the finding with respect to there being an interpolation in the rent note also deserves to be rejected, inasmuch as, there was no such finding on the aspect of there being an interpolation and only the argument and the evidence of the handwriting expert examined by the present petitioner had been taken note of and even in para 24 of the judgment it was observed that the said expert Shamsher Singh Malik (RW-3) in his cross-examination had stated that the age of ink could not be detected exactly and he could not determine the time of the alleged alteration and thereafter the Appellate Authority had observed that even in case the rent increase was taken to be 15% and not 45%, then also the present petitioner/tenant was in arrears of rent.

14. Moreover, it is a matter of settled law that every ground raised by the landlord for eviction is to be independently considered and even assuming that one of the ground raised by the landlord for eviction is not found to be meritorious, then also, the same does not call for setting aside the finding with respect to the other grounds for eviction. In the present case, it has been concurrently found that the plea raised by the respondent-landlord for eviction on the ground of personal necessity is

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bona fide and the same deserves to be upheld and the said findings of the Courts have not been shown to be perverse or illegal. Moreover, even this Court is of the opinion that the plea raised by the landlord requiring the premises for his wife, who has an independent firm and has been running the said firm for a period of six years prior to the filing of the eviction petition and is stated to be doing the business in the same shop as the landlord, cannot even be remotely stated to be not bona fide. It has also been found that on the basis of the documents the petitioner has sufficient space for himself and thus, in both equity and law the eviction order passed against the present petitioner is required to be sustained and upheld.

16. Keeping in view the above-said facts and circumstances, the impugned judgment passed by the 1st Appellate Authority is upheld and the revision petition filed by the petitioner being meritless, deserves to be dismissed and is accordingly dismissed.

December 12, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes