



CR-2864-2011(O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-2864-2011(O&M)

Date of decision : 21.05.2025

Birdi Cloth House and another

... Petitioners

Versus

Dr.Vinay Dhir and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.C.L.Premy, Advocate and
Ms.Raman Rekhi, Advocate
for the petitioners.

Mr. Ish Puneet Singh, Advocate
for respondent no.1-landlord.

VIKAS BAHL, J.(ORAL)

1. Challenge in the present revision petition is to the judgment dated 05.03.2011 vide which the Ist Appellate Authority had allowed the rent petition filed by respondent no.1-landlord under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as “the 1949 Act”) for ejection of the petitioners from the premises in question, situated at Santokhpura, Hoshiarpur Road, Jalandhar, on the ground of personal necessity.

2. Learned counsel for the petitioners has submitted that in the present case, a specific reply had been filed to the rent petition in which an



objection was taken that there was no relationship of landlord and tenant between the parties and thus, on the said plea alone, the eviction petition was liable to be dismissed with costs. It is submitted that the said issue has been wrongly decided by the Rent Controller as well as the Ist Appellate Authority and the finding on the said issue deserves to be reversed, as there is no relationship of landlord and tenant between the parties. It is further submitted that even the finding of the Ist Appellate Authority on the aspect of personal necessity is perverse and against law and the requirement, as projected by respondent no.1 for himself and for his son, was not genuine and bonafide. It is submitted that it has come on record that the son of the respondent no.1-landlord was working in Delhi and once the son of the respondent no.1-landlord was suitably employed, the question of respondent no.1 or his son requiring the premises in question is highly unlikely. It is submitted that the finding on issue no.6 by the Ist Appellate Authority is illegal and against law and deserves to be set aside.

3. Learned counsel for respondent no.1, on the other hand, has submitted that in the present case, the present petition was dismissed in default on 25.02.2016 and an application for restoration was filed in which notice was issued on 13.01.2017. It is submitted that prior to 13.01.2017, respondent no.1 had filed execution petition on 20.08.2016 after waiting for a period of almost six months from the date of dismissal of the present petition in default i.e., 25.02.2016 and had got the possession of the



premises in question through the process of the Court on 14.12.2016. It is submitted that in view of the same, the present petition has been rendered infructuous. In support of the said argument, learned counsel for respondent no.1 has relied upon the judgment of the Delhi High Court in the case of ***Sandeep Puri vs. Sharda Ahuja*** reported as ***2024 SCC OnLine Del 8512***, which has been upheld by the Hon'ble Supreme Court vide order dated 17.03.2025 passed in Petition(s) for Special Leave to Appeal (C) No(s). 6712/2025. It is further submitted that even otherwise on merits, the judgment of the Ist Appellate Court is in accordance with law and deserves to be upheld. It is argued that as far as the aspect of relationship of landlord and tenant between the parties is concerned, issue no.1 was specifically framed and the said issue was decided against the petitioners-tenant by the Rent Controller and no cross appeal was filed against the said finding before the Ist Appellate Authority by the petitioners-tenant and thus, the petitioners-tenant are estopped from raising the said plea before this Court. It is submitted that the said issue no.1 has been rightly decided by both the Courts. With respect to the finding on issue no.6, it is argued that finding of the Ist Appellate Authority is in accordance with law and deserves to be upheld and need of respondent no.1 and his son is genuine and bonafide and has been rightly accepted by the Ist Appellate Authority.

4. This Court has heard learned counsel for the parties and has perused the paper book and finds that the judgment of the Ist Appellate



Authority is in accordance with law and deserves to be upheld and the present petition being meritless deserves to be dismissed for the reasons stated hereinafter.

5. Respondent no.1-landlord (Dr.Vinay Dhir) had filed an eviction petition in the year 2002 on several grounds including the ground of arrears of rent, which as per him were due to him from 17.10.1997, and also on the ground of personal necessity. It was the case of the respondent no.1-landlord that the premises in question was required by him and also by his son as they wanted to use the said shop along with the adjoining shop, after demolishing and reconstructing the same, for the purpose of running air conditioning business. In the written statement filed, one of the pleas taken by the petitioner was that there was no relationship of the tenant and landlord between the parties. The Rent Controller framed the following issues:-

- “1. Whether no relationship of landlord and tenant exists between the parties? OPA***
- 2. Whether the respondent is in arrears rent? OPA*
- 3. Whether the property is unfit and unsafe for human habitation? OPA*
- 4. Whether the respondent has impaired the value and utility of the property without the consent of petitioner? OPA*
- 5. Whether the respondents have made additions and alternations without the consent of landlord? OPA*
- 6. Whether the respondent is liable to be ejected on the ground of personal necessity? OPA***



7. *Whether the present petition is bad for partial ejectment? OPR*
8. *Whether the site plan is incorrect? OPR*
9. *Relief.”*

6. The two issues which are relevant for consideration in the present case are issue no.1 and issue no.6. The Rent Controller vide judgment dated 15.10.2008 decided issue no.1 in favour of the landlord. While deciding the said issue in favour of the landlord, it was held by the Rent Controller that RW-2 Kartar Singh, who is the father of the present petitioner, had deposed that he had been paying rent to Lachman Dass till 1991 and after his death, he had been paying rent to his sons and that he had not denied the fact that the legal heirs of Lachman Dass had sold the demised premises to Mohan Lal and Madan Lal and that Mohan Lal and Madan Lal had sold the property in dispute to Vinay Dhir (present respondent no.1). Reliance was also placed upon the sale deed Ex.P1 vide which the legal heirs of Lachman Dass had sold the property in question to Mohan Lal and Madan Lal, sons of Raj Mal, and also the sale deed Ex.P3, vide which the respondent no.1 Vinay Dhir, had purchased the property from Mohan Lal and Madan Lal on 17.10.1997. It was thus observed that the relationship of the landlord and tenant between the parties was proved. It would be relevant to note that the said finding was not challenged by the present petitioners before the Ist Appellate Authority. In the said circumstances, as per settled law, the petitioners are estopped from raising a



challenge to issue no.1. Even otherwise, since abovesaid facts and findings have not been disputed on behalf of the petitioners before this Court, thus, by virtue of operation of law, respondent no.1 would fall within the definition of “landlord”. Section 2(c) of 1949 Act is reproduced hereinbelow:-

*“2(c). **“Landlord”** means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit, of any other person, or as a trustee, guardian, receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter authorised, **and, every person from time to time deriving title under a landlord;**”*

A perusal of the above provision would show that a landlord would also include every person who from time to time derives title from the landlord. In the present case, respondent no.1 had purchased the property from Mohan Lal and Madan Lal, who had purchased the said property from the LRs of Lachman Dass, who, as per the evidence of RW-2, were admittedly his landlords, as he had been paying rent to them.

7. The Rent Controller had decided issue no.6 in favour of the petitioners-tenant. The Ist Appellate Authority, vide judgment dated 05.03.2011, however reversed the said finding and decided issue no.6 in favour of respondent no.1-landlord. While doing so, the Ist Appellate Authority took into consideration the pleadings of the parties and also



evidence in support of the same. It was observed that Dr. Vinay Dhir had stepped into witness box as PW-1 and had deposed with respect to his personal necessity and although it had come in his cross-examination that his son was earlier working in Delhi but it had also come in his evidence that the son was residing in their family house at Laxmipura, Jalandhar. The objection raised on behalf of the learned counsel for the tenant to the effect that once the son of the landlord was well placed, there was no occasion for him to start the business in Jalandhar was answered by the Ist Appellate Authority by observing that it was not necessary for the son of the landlord to sit idle so as to avail the ground of personal necessity and merely because he was earning his livelihood by doing some work would not come in the way of the said son, doing his own business instead of serving in a company and that it was not open to the tenant to take the plea that the job already being done by the son of the landlord was good. It was thus observed that the plea raised by the landlord was bonafide and genuine. Reference had also been made to the cross-examination of RW-1 Ranjit Singh, who in his cross-examination had stated that it was correct that the respondent no.1-landlord required the demised premises for himself and for his son. It was observed by the Ist Appellate Authority that the said admission by RW-1 Ranjit Singh, who is the present petitioner, had been wrongly not considered by the Rent Controller. The finding of the appellate Authority is not shown to be perverse or illegal.



8. The sole argument raised on behalf of learned counsel for the petitioners on the aspect of bonafide requirement, to the effect that the son of respondent no.1-landlord was employed and had a good job and there was no possibility that he would carry his own business, is meritless and deserves to be rejected. Merely because the son of respondent no.1 was working with a company during the pendency of the petition cannot raise a presumption that once the shop is vacated by the petitioners, he would not carry out business in the same as averred in the ejectment petition. Moreover, it cannot even be expected from the son of the landlord or from the landlord that they should remain idle till the time the eviction petition is finally decided. In the present case, the eviction petition was filed in the year 2002 and the possession of the premises had been taken on 14.12.2016 i.e., after a period of more than 13 years and in case respondent no.1 as well as his son were to remain idle, it would have been impossible for them to survive. Moreover, Section 13(4) of the 1949 Act provides adequate safeguard in a situation where the landlord or his son obtains possession of the premises in question on the ground of personal necessity and does not occupy the same for a continuous period of 12 months from the date of obtaining possession or puts the building to any other use or lets it out to any other tenant. Section 13(4) of the said Act is reproduced hereinbelow:-

“(4)Where a landlord who has obtained possession of a building or rented land in pursuance of an order under sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) of sub-



*section (3) [does not himself occupy it or, if possession was obtained by him for his family in pursuance of an order under sub- paragraph (i-a) of paragraph (a) of sub-section (3), his family does not occupy the residential building, or, if possession] was obtained by him on behalf of his son in pursuance of an order under sub-paragraph (iv) of paragraph (a) of sub-section (3), his son does not occupy it for the purpose for which possession was obtained, for a continuous period of twelve months from the date of obtaining possession or where a landlord who has obtained possession of a building under sub-paragraph (iii) of the aforesaid paragraph (a) puts that building to any use or lets it out to any tenant other than **the tenant evicted from it, the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of such building or rented land and the Controller shall make an order accordingly.**”*

9. It is not the case of the petitioners that after respondent no.1 had taken possession of the premises on 14.12.2016, which fact is not disputed before this Court, he and his son have not used the premises in question for the purpose which was stated in the eviction petition. Moreover, it is a matter of settled law that when the landlord himself requires the building for his own use and occupation or for the use of his son, then the Court is not to proceed on presumption that the requirement so projected is not bonafide and it is not for the tenant to dictate terms to the landlord as to how he should adjust himself without getting the possession of the rented premises. Thus, the finding of the Ist Appellate Authority on



issue no.6 is in accordance with law and deserves to be upheld.

10. There is another aspect to the matter which has been highlighted by learned counsel for respondent no.1. It is not in dispute that the present revision petition was dismissed in default on 25.02.2016 and that respondent no.1-landlord had filed an application for execution of the judgment of the Ist Appellate Authority on 20.08.2016, after waiting for a period of almost six months, and in the said execution proceedings, the possession was delivered to respondent no.1-landlord on 14.12.2016 and it is only thereafter that an application for restoration was filed in which notice was issued on 13.01.2017. Thus, during the period when the case was dismissed in default, admittedly respondent no.1-landlord had taken the possession. The Delhi High Court in the case of **Sandeep Puri** (supra), after placing reliance upon the judgment of the Hon'ble Supreme Court, has stated that in the said circumstances, the petition would be rendered infructuous. The relevant portion of the said judgment is reproduced hereinbelow:-

“1. The orders dated 21.05.2024 and 28.10.2024 reflect that it is the admitted case of both the parties that the possession of the Shop bearing No. 5/2947-D, Shiv Chowk, Ranjeet Nagar, New Delhi [hereinafter referred to as "subject premises"] has been handed over to the Respondent/landlady through execution proceedings.

2. Learned Counsel for the Petitioner/tenant affirms that the possession of subject premises has been taken over.



3. The issue of whether a Revision Petition is maintainable when the tenanted subject premises has been legally restored to the Respondent/ landlady, either during or before the filing of the Revision Petition, has been addressed by the Supreme Court as well as by Coordinate Benches of this Court.

4. The Supreme Court in NC Daga v. Inder Mohan Singh Rana, dealt with a similar situation while dismissing a challenge by a tenant to a judgment passed by this Court upholding an order declining leave to defend passed by the learned Trial Court. The facts in the case were that, possession of the tenanted premises had been taken pursuant to an order passed by the Executing Court. The Supreme Court dealt with the similar arguments raised on behalf of the Respondent/landlord that the Petition has become infructuous pursuant to the possession having been taken.

5. After briefly examining the contention of the parties, the Supreme Court in N.C Daga case held that in view of the admitted position of possession being taken in execution proceedings, it was not necessary to go into the further details since such a decision would be a purely an academic question. The Supreme Court held as follows:

"6. In view of the admitted position that pursuant to the order passed by the Rent Controller, possession has been taken on execution of the order permitting eviction, and absence of specific stand regarding implied consent it is, however, not necessary to go into the finer details and to examine the rival stand in the background of legal position as it would amount to rendering decision on a purely academic question. The



appeal is, therefore, dismissed, without any order as to costs."

[Emphasis Supplied]

6. A similar view was taken by the Supreme Court in *Vinod Kumar Verma v. Manmohan Verma* where on an averment by Respondent/ landlord that possession of the premises has already been taken over, ***the Supreme Court held*** that nothing further survives in the Appeal and disposed the Appeals as being infructuous. The order being brief is extracted below"

"Leave granted.

At the time of hearing of these appeals, the learned counsel appearing on behalf of the landlord-respondent submits, on instructions, that the possession of the premises in question has already been taken over by the landlord-respondent. That being the position, these appeals have now become infructuous, which have been filed against the final judgment and order dt. 25.02.2008 and 28.03.2008 passed by the High Court of Delhi at New Delhi in RCR No. 49 of 2007 and C.M.No.119 of 2008 (Review) in RCR No.49 of 2007, by which the Revision Petition filed by the tenant/appellant was dismissed and order of eviction was affirmed. Since the possession has already been taken over by the landlord-respondent, in our view nothing survives in these appeals and accordingly, the appeals are disposed of as infructuous.

Interim order, if any, stands vacated. There will be no order as to costs. "

[Emphasis Supplied]



7. Various Coordinate Benches of this Court have also similarly held that the tenant's Petition have become infructuous in view of possession being taken.....

xxx xxx xxx

16. In any event, after the passing of the Impugned Order, the Respondent/landlady obtained possession of the subject premises in accordance with law. As such the Revision Petition has been filed challenging the order of the learned Trial Court which has now gained fruition and was executed and has already been implemented through execution proceedings. This was recorded by the Court in its orders date 21.05.2024 and 28.10.2024. In these circumstances, the Revision Petition has become infructuous.”

11. The said judgment of the Delhi High Court has been upheld by the Hon'ble Supreme Court vide order dated 17.03.2025 passed in Special Leave to Appeal (C) no.6712 of 2025.

12. Keeping in view the above said facts and circumstances, this Court is of the opinion that the impugned judgment passed by the Ist Appellate Authority deserves to be upheld and is accordingly upheld and the present petition being meritless deserves to be dismissed and is accordingly dismissed.

13. Pending application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

May 21, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No