



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Civil Revision No. 8343 of 2015 (O&M)
Date of Decision: 25.08.2025**

Ashwani Kumar

..... Petitioner

Versus

Smt. Parkasho Devi (now deceased) through
her LRs and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Narinder Kumar Vadehra, Advocate
for the petitioner-landlord.

Mr. M.S. Bedi, Senior Advocate, assisted by
Ms. Shagun, Advocate
for the respondent Nos. 1 to 8-tenants.

HARKESH MANUJA, J. (ORAL)

CM-26062-CII-2015

Application is **allowed** as prayed for, subject to all just exceptions. Exemption from filing the certified copy of judgment dated 06.08.2009 passed by the Rent Controller, Gurdaspur and true typed copy of judgment and 20.07.2015 passed by the Additional District Judge, Gurdaspur, is granted.

MAIN CASE

The petitioner-landowner, by way of present revision petition under Section 15 (5) of The East Punjab Urban Rent Restriction Act, 1949, seeks setting aside of an order dated 20.07.2015 passed by learned Additional District Judge, Gurdaspur (**hereinafter referred to as**

“Appellate Authority”), whereby an appeal preferred by the respondents-tenants against the order dated 06.08.2009 passed by learned Rent Controller, Gurdaspur, allowing the eviction petition preferred at the instance of petitioner-landlord, was accepted, thereby setting aside the eviction order of learned Rent Controller.

[2] The admitted facts are that the petitioner-landlord is the co-owner of rented land measuring 10’ x 6’ x 25’ as detailed in the headnote of the eviction petition instituted by him and respondents were in occupation of the rented land being tenants. The petitioner-landlord filed an eviction petition on 09.02.2004 on the ground of arrears of rent and *bona fide* necessity so as to open an office of his own business about sale and purchase of properties.

[3] In response, eviction petition was opposed on the point of *res judicata* while stating that an earlier eviction petition by the petitioner and his brother filed in 1989 through their father on account of *bona fide* need was dismissed upto this Court vide decision dated 01.04.2003 besides, the other co-sharer of the petitioner who happened to be the brother did not support the eviction. It was also pleaded that the *bona fide* need of the petitioner was not made out *qua* the shop in question, as his father owned number of other properties in the same urban area.

[4] Learned Rent Controller vide its order dated 06.08.2009 allowed the eviction petition preferred at the instance of petitioner-landlord on the ground of *bona fide* need of the petitioner *qua* the rented land.

[5] Aggrieved thereof, respondent Nos. 1 to 8 preferred first appeal, which was allowed vide decision dated 20.07.2015 passed by the Appellate Authority. Hence, the present revision petition.

[6] Impugning the aforementioned decision dated 20.07.2015 passed by the Appellate Authority, learned counsel for the petitioner-landlord submits that the Appellate Authority went wrong while reversing the well reasoned decision rendered by the learned Rent Controller, whereby the respondents-tenants were ordered to be evicted from the rented land. He further submits that the factum of petitioner being involved in the business of sale and purchase of property was admitted by Lakhwinder Pal / RW-1 (respondent No. 2 herein) as well as Naresh Mehta / RW-2. He also points out that mere fact that the petitioner was residing in the house owned by his sister-in-law, namely, Shivani, could not have been taken against him for the purpose of non-suiting him on account of other commercial properties being owned and possessed by his father in the same urban area. He further submits that once his brother-Jogesh Kumar, who happened to be co-owner in the demised property and was impleaded as respondent No. 9 in the property in question, did not oppose the eviction petition preferred at the instance of petitioner, his absence could not have been taken adverse against the petitioner and as such, judgment passed by the Appellate Authority is liable to be set aside, while restoring the eviction order passed by the learned Rent Controller.

[7] On the other hand, learned Senior Counsel appearing on behalf of respondent Nos. 1 to 8-tenants submits that once, a well reasoned judgment based on appreciation of evidence was passed by the learned

Appellate Authority, it was not called for by this Court to interfere with the same in its limited revisional jurisdiction, even if second view was possible on the same set of evidence. In support, learned Senior Counsel relies upon a decision dated **27.08.2014** rendered by the Hon'ble Supreme Court in case **CA No. 6177 of 2004**, titled ***"Hindustan Petroleum Corporation Ltd. Versus Dilbahar Singh"***, **2014 (4) RCR (Civil) 162**. Relevant para-45 thereof is extracted hereunder:-

"45. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a

different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

[8] After hearing learned counsel for the parties and having gone through the paper-book, I find substance in the submission(s) made on behalf of the petitioner-landlord.

[9] In the present case, the petitioner has sought eviction of respondent Nos. 1 to 8 from the rented land which was jointly owned by him as well as his brother-Jogesh Kumar, who was impleaded as respondent No.9 in the eviction petition. Despite service, the co-owner of the rented land neither filed any written statement nor even preferred to appear as a witness to support or oppose the prayer made in the eviction petition. In such circumstances, non-appearance of the co-owner could not have been treated as fatal to the cause of petitioner, who happens to be one of the joint owners of the rented land and has every right to seek its eviction. The adverse presumption drawn by the learned Appellate Authority against petitioner while recording that the co-owner if had appeared would have opposed the eviction, was wholly misplaced and baseless.

[9.1] Furthermore, the fact that the petitioner having married against the wishes of his father was allowed to reside in a house owned by his sister-in-law, cannot, by any stretch of imagination, be taken against the cause of petitioner, as the authorities under the Rent Control Act are not to go into the

relationship or the family affairs of the parties or to give opinion on the such issues, as a father who is unhappy from the marriage of his son been performed against the wishes of the family, can normally allow to live him separately in different property and thus, the same never been the subject of adjudication, was required to be relied upon.

Moreover, the only reason of any such finding recorded by the learned Appellate Authority was to co-relate the petitioner with the other properties owned by his father so as to make an opinion that the father of petitioner was also owning different commercial properties in the same urban area of Gurdaspur, which could have been occupied by the petitioner against his need. However, even if it was presumed that the father of petitioner was owning some other commercial properties in the same urban area of Gurdaspur, the same was not fatal to the cause of petitioner as the eviction in the present case was claimed by the petitioner *qua* the demised premises being one of its co-owner and the same was never affected of other commercial properties, even if owned by his father in the same urban area, especially when it was never proved on record that the petitioner owned any other property in the same urban area.

[9.2] Mere fact that the petitioner failed to produce on record his income tax returns regarding his business of property consultant or did not produce details about the premises from where he was running such business, was not to be taken against him, especially when the factum of petitioner running the business of sale and purchase of properties was duly admitted by the two witnesses appearing on behalf of respondents as RW-1

(Lakhwinder Pal) and RW-2 (Naresh Mehta). In such circumstances, the findings recorded by the learned Appellate Authority were wholly perverse.

[9.3] Equally important, the learned Appellate Authority went wrong to non-suit the petitioner on the ground that the eviction petition was an act of *mala fide* on his part been preferred merely within ten months of the dismissal of earlier rent petition and that too on the ground of *bona fide* need. In this regard, it may be noticed here that the previous eviction petition for the *bona fide* need of petitioner and his brother was filed through their father in the year 1989 and the same was rejected upto this Court vide revisional order dated 01.04.2003. However, the present eviction petition was filed in the year 2004 when the petitioner was 29 years of age and admittedly during the business of sale-purchase of property further it was not proved that he was having any other premises to open an office to run his business. Be that as it may, the plea of *res judicata* regarding maintainability of the present eviction petition on the ground of dismissal of previous eviction petition was rejected by the learned Appellate Authority and no challenge to it was ever set up by the respondents even in the present revision petition.

[10] In such circumstances, the *bona fide* necessity of the petitioner *qua* the premises in question for running the business of sale and purchase of properties was duly established on record.

[11] With respect to the submissions made on behalf of the learned Senior Counsel appearing for the respondents, in the humble opinion of this Court, the decision made by the Hon'ble Apex Court in case of ***Hindustan Petroleum Corporation Ltd. (supra)*** would not come to the rescue of

respondent Nos. 1 to 8, especially in the circumstances when the findings recorded by learned Appellate Authority were itself against the settled canons of law as discussed hereinabove.

[12] In the light of discussion made hereinabove, present revision petition succeeds and is, accordingly, **allowed**; while setting aside the order dated 20.07.2015 passed by the Appellate Authority and upholding the judgment dated 06.08.2009 passed by the Rent Controller.

[13] Pending miscellaneous application(s), if any, shall also stand disposed off.

August 25, 2025
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>