

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****155****CR-4640-2022 (O&M)****Date of decision: 16.04.2026****Ravinder Kumar****...Petitioner(s)****Vs.****Om Parkash Vatta****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Eknoor Kaur Gill, Advocate for
Mr. Pratap Singh Gill, Advocate for the petitioner.

Mr. S.P.Arora, Mr. Himanshu Arora, and
Mr. Manpreet Singh, Advocates for the respondent.

NIDHI GUPTA, J.

Present Civil Revision Petition has been filed by the tenant against the concurrent judgments of the learned Courts below; whereby the Eviction Petition filed by the respondent/landlord has been allowed by both the Courts below.

2. Brief facts of the case in chronological order are as follows: -

19.11.2014: On 19.11.2014, respondent/landlord had filed Eviction Petition (Annexure P-1), under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act 1973 (hereinafter referred to as 'the Act'), seeking ejectment of petitioner from the demised premises on grounds of: (a) arrears of rent; and (b) bonafide necessity.

15.05.2015: Petitioner had filed written statement dated 15.05.2015 (Annexure P-2), to the said Rent Petition.

28.07.2015: Respondent filed replication dated 28.07.2015 (Annexure P-3).



13.10.2016: Vide judgment dated 13.10.2016, learned Rent Controller Karnal had allowed the aforesaid Ejectment Petition as follows: -

“13 In view of my above discussion on issue no.1, petition stands allowed with costs. Respondent is directed to vacate the shop in question within period of two months from the date of this judgment. Respondent is also directed to pay the rent @ 1886/- per month w.e.f. 19/11/2011 till 02/03/2012, 2075/- per month w.e.f. 03/03/2012 till 02/03/2014 and 2282/- per month w.e.f 03/03/2014, electricity bill and other charges of shop till the vacation of the shop in question, subject to the adjustment of the rent previously paid by the respondent during the pendency of the petition. Memo of costs be prepared and file be consigned to record room after due compliance.”

12.11.2016: Against the order dated 13.10.2016, petitioner/tenant had filed a Rent Appeal dated 12.11.2016 (at Pages 39 to 49 of the paperbook).

12.09.2022: Vide judgment dated 12.09.2022, the Rent Appeal filed by the petitioner was dismissed with costs by the Id. Appellate Authority, Karnal.

3. Hence, present Revision Petition.

4. The primary ground urged by learned counsel for the petitioner laying challenge to the impugned judgments is that originally respondent was owner of 7 shops situated in the said house No.301-R; out of which he had recently sold 4 frontal shops, for a sum of Rs.80 lacs. It is contended that however, this fact was not mentioned by the respondent in the Rent Petition. Therefore, respondent had concealed material facts. Thus, need of the respondent was not genuine or bonafide. It is contended that Respondent in his replication has sought to cover his tracks and explain



the sales by stating that he needed finances for the medical treatment of his wife, who was diagnosed with cancer in the year 2010. However, the said sales had been made by the respondent in 2013. Therefore, explanation given by the respondent is not satisfactory. Clearly therefore, respondent had concealed the material facts in the Rent Petition that he was in ownership of other premises prior to filing of Rent Petition.

5. It is further submitted that a bare perusal of the ejectment petition filed by the respondent/landlord would show that the provisions of the Act of 1973 had not been complied with as the respondent has failed to mention whether he has vacated any premises without any sufficient cause or reason after the commencement of the Act of 1973. Further, the respondent/landlord has failed to disclose the number of properties occupied by or got vacated by him. The ejectment petition itself is bad for non-compliance of the Act of 1973 and thus deserved to be dismissed.

6. Learned counsel for the petitioner further submits that there is absolutely no bonafide personal necessity of the respondent and the present is nothing but the tactic throw the petitioner out of the shop in question, along with the other tenants who were in possession of the 2 other shops owned by the respondents/landlord in house No. 301-R. The present ejectment petition is nothing more than tool to get the shop in dispute vacated so as to sell the same in view of the sky-high commercial rates in the vicinity of the shop in dispute.

7. In support, learned counsel for the petitioner has referred to following judgments: -



1. **Kishan Chand vs. Jagdish Pershad and others, (2003) 9 Supreme Court Cases 151;**
2. **Ajit Singh and another vs. Jit Ram and another, (2008) 9 Supreme Court Cases 699;**
3. **Manmohan Lal vs. Shanti Parkash Jain, CR No. 2320 of 2014, decided on 11.08.2014 (P&H);**
4. **Shankar Lal vs. Madan Lal and others 2010 SCC OnLine P&H 5714; and**
5. **Mrs. Jaspreet Takhar wife of Mr. Kultar Singh Nat vs. Ghai Enterprises 2013 SCC OnLine P&H 1047.**

8. It is accordingly prayed that the present Revision Petition be allowed; and the impugned judgments be set aside.

9. *Per contra*, learned counsel appearing on behalf of the respondent submits that there are concurrent findings of fact in favour of the respondent to the effect that personal requirement of the respondent is genuine and bonafide. It is submitted that respondent has succeeded in proving the same. It is further submitted that respondent has not concealed any material facts in the Rent Petition. It is also admitted case of the petitioner that the said 4 shops had been sold by the respondent prior to filing of the Rent Petition. Moreover, respondent is the sole judge of his own requirement and petitioner cannot dictate terms to the respondent. He accordingly prays for dismissal of present Revision Petition.

10. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of learned counsel for the petitioner.

11. The record reveals that respondent had filed present Rent Petition No. 10 dated 19.11.2014 seeking ejectment of the petitioner from



demised premises describable as a shop, forming part of the house No. 301-R, Model Town, situated in Main Market, Model Town, Karnal which is bounded as under:

“North:14'-11" shop of the petitioner in possession of Rajinder Kumar son of Amar Singh

South: 14'-11" house of 302-L, of Shri Harish Chaudhary

East: 8' remaining part of House No. 301-R, owned by the petitioner.

West: 8' road”

12. Admittedly, petitioner had taken the said shop on rent from the respondent on dated 03.03.1992 at a rent of Rs.800/- p.m. for a period of 11 months. It was averred in the Rent Petition that apart from the shop in question there are two other shops adjoining the shop in question and the house No. 301-R is also in the possession of respondent. It is further averred that the remaining shops adjoining the shops in question are also in possession of two other tenants. It is further averred that the respondent retired from the post of Chief Goods Supervisor from Indian Railways on 31.01.2002 and wants to start a vocational training center in the shop in question by including the portion of a demised shop and adjoining shop with the portion of his house by renovating the entire house. It is further averred that the Government of India has launched a scheme known as *"Skill Development Initiatives Scheme"* under the Directorate General of Employment and Training. Accordingly, respondent intended to start various part-time, weekends, full-time courses or vocational training such as accounting, basic electronics including repair and maintenance of electrical



equipments, inverters, TVs, computer training, sales Executive training etc. It is also averred that respondent also intends to start a Job Center in the aforesaid property and accordingly he required the shop in question along with two other shops for his personal use and occupation. It is further averred that respondent is also filing separate eviction petitions against the other two tenants. It is also averred that the daughter-in-law of the respondent is also working in Chandigarh College of Engineering and Technology, Chandigarh and she has been dealing with the implementation of the aforesaid programme of Government of India. It is further averred that the experience of his daughter-in-law shall also help the respondent in his above-mentioned project. On these grounds the Rent petition was filed.

13. Argument on behalf of the petitioner is that respondent has concealed material facts in the rent petition in failing to disclose in respect of sale of 4 other shops by way of Sale Deeds bearing Vasika No.10202/1, 10208/1 and 10209/1 for a total sale consideration about 32 lacs on dated 18.02.2013. Admittedly, the said Sale Deeds had been executed prior to filing of the Rent Petition on 19.11.2014. As such, strictly speaking, respondent was not required to disclose about the said sales.

14. As per the provision of Section 13(3)(a)(i) of the Act, it is only to be seen whether the Rent Petitioner is in 'possession' of the other shops on date of filing of rent petition of which he is alleged to be owner; and 'ownership' of any other shops is irrelevant. In the present case the petitioner has admitted in his cross-examination that the respondent is not in possession of any of the other four shops stated to be owned by the



respondent. Therefore, the bona fide requirement of the respondent was clearly established on record.

15. Furthermore, the very premise on which the petitioner has based his case is that the respondent has failed to disclose that he was owner of other properties. However, Contention of the petitioner that the respondent had concealed material facts in his Rent Application in failing to disclose ownership/possession/selling/vacation of other shops is otiose to the requirement of Law; and is based on a patent misreading of Section 13(3)(a) of the Act, which is as follows: -

“13. (3) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession -

(a) in the case of a residential building, if, -

(i) he requires it for his own occupation, is not occupying another residential building in the urban area concerned and has not vacated such building without sufficient cause after the commencement of the 1949 Act in the said urban area;

[(ii) he requires it for use as an office or consulting room by his son who intends to start practice as a lawyer, qualified architect or chartered accountant or as a "registered practitioner" within the meaning of that expression used in the Punjab Medical Registration Act, 1916, the Punjab Ayurvedic and Unani Practitioners Act, 1963, or the Punjab Homeopathic Practitioners Act, 1965, or for the residence of his son who is married :

[Substituted by Haryana Act 16 of 1978.]

Provided that such son is not occupying in the urban area concerned any other building for use as office, consulting room or residence, as the case may be, and has not vacated it



without sufficient cause after the commencement of the 1949 Act.]

(iii) it was let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment :

Provided that where the tenant is a workman who has been discharged or dismissed by the landlord from his service or employment in contravention of the provisions of the Industrial Disputes Act, 1947, he shall not be liable to be evicted until the competent authority under that Act confirms the order of discharge or dismissal made against him by the landlord;

(iv) the tenant has already in his own possession a residential building or subsequently acquires possession of, or erects, such a building reasonably sufficient for his requirement in the urban area concerned;

(v) he is a member of the armed forces of the Union of India and requires it for the occupation of his family and produces a certificate, from the prescribed authority referred to in section 7 of the Indian Soldiers (Litigation) Act, 1925, that he is serving under special conditions within the meaning of section 3 of that Act."

16. From a reading of the above provision, it is clear that all that is mandated is that the landlord be not in 'occupation' of another premise in the urban area concerned. It is not stipulated anywhere that the landlord cannot be 'owner' of or in 'possession' of another property in the same urban area. All that the provision envisages is that at the time of filing the eviction petition, the landlord should not be in occupation of another property in the same urban area. This position in Law has been clarified ad



infinitum in numerous judgments rendered by this Court as well as the Hon'ble Supreme Court. First, reference is made to judgment of this Court in case of **CR-3472-2016** titled as **"M/s Narula Motor Stores & Ors. Vs. Bhupinder Singh & Anr."** Decided on **08.01.2025**, wherein it has been held that: -

"11. There cannot be any dispute regarding settled proposition of law. Section 13(3) statutorily obligates landlord to plead and prove occupation/vacation of any other premises within the concerned urban area. Section 13(3) reads as under: -

"13. (3) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession -

(a) in the case of a residential building, if, -

(i) he requires it for his own occupation, is not occupying another residential building in the urban area concerned and has not vacated such building without sufficient cause after the commencement of the 1949 Act in the said urban area;

[(ii) he requires it for use as an office or consulting room by his son who intends to start practice as a lawyer, qualified architect or chartered accountant or as a "registered practitioner" within the meaning of that expression used in the Punjab Medical Registration Act, 1916, the Punjab Ayurvedic and Unani Practitioners Act, 1963, or the Punjab Homeopathic Practitioners Act, 1965, or for the residence of his son who is married :

[Substituted by Haryana Act 16 of 1978.]

Provided that such son is not occupying in the urban area concerned any other building for use as office, consulting room or residence, as the case may be, and has not vacated it without sufficient cause after the commencement of the 1949 Act.]

(iii) it was let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment :



Provided that where the tenant is a workman who has been discharged or dismissed by the landlord from his service or employment in contravention of the provisions of the Industrial Disputes Act, 1947, he shall not be liable to be evicted until the competent authority under that Act confirms the order of discharge or dismissal made against him by the landlord;

(iv) the tenant has already in his own possession a residential building or subsequently acquires possession of, or erects, such a building reasonably sufficient for his requirement in the urban area concerned;

(v) he is a member of the armed forces of the Union of India and requires it for the occupation of his family and produces a certificate, from the prescribed authority referred to in section 7 of the Indian Soldiers (Litigation) Act, 1925, that he is serving under special conditions within the meaning of section 3 of that Act."

XXX XXX XXX

14. The plea satisfies the ingredients as contemplated under Section 13(3). However, issue is concealment. The precise issue that arises for consideration of this Court is:

"Whether on the date of filing of the eviction petition, the landlord was in occupation of the shop related to Multani fruits on the basis of which Rent Controller non-suited the landlord?"
In case landlord was in occupation of the said shop, eviction petition deserves dismissal.

XXX XXX XXX

19. A perusal of the aforesaid orders reveals that the Rent Controller dismissed the application holding that the shop in possession of the landlord relatable to Multani Fruits as claimed by the tenant will have no bearing on the facts of the present case, as the same came in possession of the landlord recently. The aforesaid order passed by the Rent Controller remained unchallenged. There is no evidence on record to prove that the landlord was in possession of the shop vacated



by Multani Fruits, situated at Sabji Mandi on the day the eviction petition was filed.

20. In view of above, this Court finds no ground to hold landlord guilty of concealment. Finding recorded by Rent Controller are without any basis.” (Emphasis is mine)

17. Reference is also made to judgment of this Court in **Arjun Dass v. Birinder Kaur (P&H) : Law Finder Doc ID # 423925** wherein it is held that:-

“12. The second argument that has been raised by learned Counsel for the petitioner(tenant) that the landlords have not disclosed regarding the ownership of other properties in their ejectment petition (Annexure P-3) and thus there is non compliance of Section 13(3)(a)(i) of the Act and hence on this ground alone, the petition itself is not maintainable is also devoid of merit and misconceived. A perusal of Section 13(3)(a)(i) of the Act would show that it is not the requirement under law that a landlord must declare as to what are the properties which are under his or her ownership. The words that have been used by the legislature, in its wisdom, are "use and occupation". Thus the only requirement under law for a landlord to disclose in its petition for ejectment is that he is not in use and occupation of any other premises and if it is so, he is duty bound under law to mention the properties so as to entitle himself for relief for ejectment of tenants.”

(Emphasis added)

18. In **Mohinder Kaur v. Amarpreet Singh (P&H) : Law Finder Doc ID # 1210076**; this Court reiterated that: -

“C. East Punjab Urban Rent Restriction Act, 1949, Section 13(3)(a)(i) - Bonafide need - Ownership of other property - As per



requirement of Act of 1949, ownership of other properties is not material for examining bonafide requirement - What is required is that landlord is not occupying another building or has not vacated such building without sufficient cause after commencement of Act in said urban area."

19. Thus, firstly, it is only to be seen that there is no other building in the occupation of the landlord at the time of filing of the rent petition.

20. Along the same lines, reference may also be made to another relevant judgment in **Yoginder Kumar Garg v. Banarsi Lal, (Punjab And Haryana) : Law Finder Doc ID # 2437677** wherein it is held that: -

"A. Haryana Urban (Control of Rent and Eviction) Act, 1973, Section 13(3)(a) - Reversal of order of eviction - Plea of landlord regarding non payment of arrears of rent - Legislature in its wisdom used the word "occupying" while casting obligation upon landlord at the time of filing of eviction petition to plead that "he is not occupying any other residential building in the urban area" - Term "occupation" cannot be equated with term "ownership" thus, in case where landlord owns any other residential or commercial property as case may be, in same urban area but is not occupying same, he may, not be under any legal obligation to plead and provide details of those other properties and therefore its non-disclosure cannot be taken as concealment on his part - Held, statement of respondent-tenant established that at the time of filing of eviction petition, petitioner-landlord was not in occupation of shop/showroom situated at Safidon Gate, Jind - Respondent-tenant admitted in his cross-examination that shop situated at Safidon Gate, Jind was under tenancy before filing of eviction petition - Moreover, in his written statement as well as in his affidavit of evidence as



respondent-tenant merely mentions about other shop being owned by petitioner-tenant, he himself nowhere mentions about occupation.

XXX XXX XXX

3. The eviction petition was opposed at the instance of respondent-tenant while submitting that that the petitioner-landlord owns a double storey residential-cum-commercial building at Safidon Gate, Jind, wherein one showroom on the ground floor which was around five times the size of demised shop was rented out for the purpose of running furniture showroom and this fact was concealed in the eviction petition, thereby rendering the petitioner-landlord to be disentitled for eviction on account of his bona fide need because non-compliance of the provision of Section 13(3)(a) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as 1973 Act).

XXX XXX XXX

8. Before start of discussion, Section 13(3)(a) of 1973 Act which is relevant for the purpose of adjudication of present revision petition is reproduced hereunder:-

“13(3) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession -
(a) In the case of a residential building, if,-
(i) he requires it for his own occupation, is not occupying another residential building in the urban area concerned and has not vacated such building without sufficient cause after the commencement of the 1949 Act in the said urban area;”

Perusal of the aforementioned provision shows that the Legislature in its wisdom used the word "occupying" while casting an obligation upon the landlord at the time of filing of the eviction petition to plead that "he is not occupying any other residential building in the urban area". The term "occupation" cannot be equated with the term "ownership"



*and thus, in a case where a landlord owns any other residential or commercial property as the case may be, in the same urban area but is not occupying the same, he may not be under any legal obligation to plead and provide details of those other properties and therefore its non-disclosure cannot be taken as concealment on his part. The aforementioned distinction has been dealt with by this Court in cases of "**M/s Bombay Kashmir Goods Carriers v. Charanjit Singh**", 2022 (2) RCR (Rent) 533 and "**Babu Lal v. Rahul**", 2023 (2) RCR (Rent) 14. Relevant portion from paragraph 11 of judgment passed in case of "**M/s Bombay Kashmir Goods Carriers**" (*Supra*) is reproduced hereunder:-*

"11. The Legislature in its wisdom has used the expression 'occupation/occupying which has to be distinguished from 'ownership'. Therefore, it cannot be said that there has been any concealment by the respondent/landlord in not disclosing the properties owned by him because the petitioner/tenant failed to bring to the notice of this Court any material from which it could be shown that the respondent/landlord was in possession of any other premises other than the adjoining shop....."

*Relevant paragraphs of judgment passed in case of "**Babu Lal**" (*Supra*) are reproduced hereunder:*

"11.3 Section 13(1)(a)(i) of the Act necessitates three conditions; (i) the landlord requires the premises for his/her own occupation, (ii) he/she is not occupying another residential building in the urban area concerned, (iii) he/she has not vacated such building without sufficient cause after the commencement of the Act of 1949 in the said urban area. We are concerned with the second condition only, wherein the expression used is occupying', i.e., 'in occupation'. The words 'possession' and 'occupation' are two different words with distinct meanings; the legislature has consciously used the latter



only Section 13(3) of the Act uses the word 'possession' but Section 13(3)(a)(i) uses the word 'occupation/occupying'. Therefore, the two cannot be used inter-changeably. One may possess a property, but may not occupy the same. The expression 'occupation' means, 'use of the premises in occupation. It refers to the state of being in control and using the premises. The meaning assigned to the words 'occupation' and 'possession' in the Black's Law Dictionary, Tenth Edition- Pages no. 1248 and 1351 respectively, also points to their being distinct, having different implications. It is as under:

Occupation. 2. The possession, control, or use of real property; Occupancy

Possession. 1. The fact of having or holding property in one's power; the exercise of dominion over property.

11.4 'Occupation', therefore, has a wider meaning as it includes possession, apart from being in control or using the property, but not vice versa. 'Possession' does not include occupation; it refers to the state of being in control over a property to the exclusion of others, which may not be in actual use by the one having possession over it.

*11.5 The Supreme Court also with reference to provisions of Section 13 (2) (v) of the Act of 1973 explained the terms 'possession' and 'occupy' in **Ram Das v. Davinder (2004) 3 SCC 684**. The case pertained to a landlord seeking possession of the tenanted premises on the ground that the tenant had ceased to occupy it for a continuous period of four months without reasonable cause. In that context it was held as under:*

'7. The terms "possession" and "occupy" are in common parlance used interchangeably. However, in law, possession over a property may amount to holding it as an owner but to occupy is to keep possession of by being present in it. The Rent Control Legislations are outcome of paucity of accommodations. Most of the Rent Control Legislations, in force in different states, expect the tenant to occupy the tenancy premises. If he



himself ceases to occupy and parts with possession in favour of someone else, it provides a ground for eviction. Similarly, some legislations, provide it as a ground of eviction if the tenant has just ceased to occupy the tenancy premises though he may have continued to retain possession thereof. The scheme of the Haryana Act is also to insist on the tenant remaining in occupation of the premises. Consistently with what has been mutually agreed upon the tenant is expected to make useful use of the property and subject the tenancy premises to any permissible and useful activity by actually being there. To the landlord's plea of the tenant having ceased to occupy the premises it is no answer that the tenant has a right to possess the tenancy premises and he has continued in juridical possession thereof..

*This meaning assigned to the terms 'possession' and 'occupy' has direct relevance to the issue arising in the instant petition, as in **Ram Das (supra)** case also possession or occupation of the premises was the issue.'*

11.6 The requirement of Section 13(1)(a)(i) of the Act, therefore, is that the landlord is not occupying another residential/non-residential building in the urban area concerned, i.e., he/she is not keeping possession of the premises and using it too by being present in it. Mere ownership and possession of a premises by the landlord, without it being in occupation, will not be of any consequence and cannot bar a landlord from seeking its possession for bona fide personal use."

9. In the present case, from the evidence available on record in the shape of deposition of RW-2 i.e. the respondent-tenant himself, it has been established on record that at the time of filing of eviction petition, the petitioner-landlord was not in occupation of the shop/showroom situated at Safidon Gate, Jind. The respondent-tenant while appearing as RW2 categorically admitted in his cross-examination that the shop situated at Safidon Gate, Jind was under tenancy before the



filing of the eviction petition. Moreover, in his written statement as well as in his affidavit of evidence dated 11.10.2012 as RW the respondent-tenant merely mentions about the other shop being owned by the petitioner-tenant, he himself nowhere mentions about the occupation.”

(Emphasis is mine)

21. Thus, from the above facts, and legal position, it is clearly established that as per Law respondent was not required to disclose the other properties owned or sold by him.

22. The argument of the petitioner that respondent had failed to disclose regarding the selling of the other shops in the rent petition is also liable to be rejected firstly, in view of the the Full Bench judgment of this Court in **Banke Ram v. Sarasvati Devi, (P&H)(FB) : Law Finder Doc Id # 32977**, wherein it is held that in the absence of pleadings of the necessary ingredients as per Section 13 of the Act, the landlord is not debarred from proving the ingredients by leading evidence.

23. Furthermore, the said argument of the petitioner is also liable to be rejected in view of the fact that respondent had filed a detailed replication in which he has categorically stated that his wife was diagnosed with cancer in 2010 for which she has received treatment and therefore, the respondent needed funds for her treatment, Medicines, transportation, special diet, et cetera. Thus, it cannot be said that respondent has withheld or failed to disclose pertinent facts. The respondent has amply demonstrated sufficient cause for vacating/selling the four other shops in the same urban area, as he needed funds for the cancer treatment of his



wife, and has fully explained the circumstances under which the four shops were sold.

24. Even the objection that the facts relating to the sale of four shops in the same area by the respondent-landlord for a sum of about Rs. 32 lakhs to Dr. Goyal were introduced for the first time in replication is wholly untenable in law. The said facts were pleaded only to explain the financial compulsion arising out of the medical treatment of the landlord's wife, who is suffering from cancer, including expenses towards treatment, transportation and allied needs. It is well settled that replication forms part of pleadings and it is permissible to clarify, explain or rebut the averments made in the written statement. In the present case, the foundational plea of bona fide requirement was clearly and specifically pleaded in the eviction petition itself and has remained unchanged throughout. The reference to the sale of shops in replication is merely explanatory and in response to the objections raised by the petitioner. It neither alters the cause of action nor introduces any new ground of eviction. In this regard, reliance is placed on Division Bench judgment of this Court in **Salig Ram v. Shiv Shankar (P & H) (DB) : Law Finder Doc Id # 85397** wherein this Court has held that is a well-settled rule that replication is a part of the pleadings and anything which is specifically stated in the replication and for the first time, has to be controverted, and if it is not controverted and is allowed to pass it must be assumed that the plea raised is accepted.

25. Accordingly, the Appellate Authority has correctly observed in para 27 of its judgement dated 12.9.2022 as follows: –



“27. As to the fourth contention that the respondent-landlord has not pleaded or proved the ingredients of Section 13(3)(a)(i) of the Act. a perusal of the rent petition as also the testimony of PWI Om Parkash Vatta, petitioner clearly goes to show that the respondent-landlord has duly averred and deposed as to the essential ingredients of Section 13(3) (a)(i) of the Act whereas nothing has been brought on record to the contrary on the part of appellant-tenant to show that any such essential ingredients are not complied with in the present case.

Resultantly, the respondent-landlord has amply established on record that he is in requirement of the shop in question for his bonafide personal necessity and the appellant-tenant is liable to be ejected from the shop in question on that ground. Thus, the findings returned by the learned Rent Controller on Issue No.2 are affirmed on the grounds as above”.

26. Thus, the objections raised by the petitioner regarding alleged concealment of sale of certain shops are misconceived and immaterial. The respondent has duly explained that such sale was necessitated due to compelling medical circumstances relating to his wife. In any event, it is settled law that availability or non-availability of other premises cannot be examined from the tenant's perspective so as to defeat a genuine requirement of the landlord.

27. Further Contention of the petitioner that the said diagnosis of the year 2010, whereas the shops have been sold in the year 2013 is not tenable in view of the fact that the petitioner while being cross examined as



RW2 was specifically questioned in this regard, and he has not expressly denied the said suggestion and has in fact, feigned ignorance.

28. The second argument of the petitioner that the respondent landlord is an old person and has no physical capacity to establish vocational Centre is also without merit. As firstly, there is absolutely nothing on record to show that landlord is an infirm person or incapable of doing business. The Authorities below have categorically recorded that the respondent was attending the hearings of the rent petition on every date; which fact was also admitted by the petitioner/tenant as RW2.

29. Lastly, although no argument to this effect has been raised by the petitioner before this Court, however, the record reveals that before the Courts below, Petitioner had also contended that the landlord had offered to sell the shop in question to petitioner in 2013 and received token amount of Rs.50,000/-. However, there is no merit whatsoever to be said contention as, apart from bald/bare statement, no document qua alleged offer to sell or receipt of token money has been produced. Nor even the date, month or year when alleged token amount was given by tenant is forthcoming. Further RW2/petitioner has admitted in his cross-examination that no proceedings in furtherance of any such offer for sale/receipt of token money by landlord were initiated by petitioner. In any event, the conduct of the petitioner disentitles him from any equitable relief, as he has not only defaulted in payment of rent but has also altered the user of the premises contrary to the original purpose of tenancy. Hence, landlord has



established that he is in requirement of shop in question for his bonafide personal necessity.

30. The respondent, being a retired person, has clearly demonstrated his need to utilize the premises for establishing a vocational training centre. The law is well settled that the landlord is the best judge of his requirement, and the tenant cannot dictate the manner in which the landlord should utilize his property. Reliance is placed upon **Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta 1999 (6) SCC 222** wherein the Hon'ble Supreme Court has held that once the landlord establishes a prima facie case of bona fide need, a presumption arises in his favour, and the burden shifts upon the tenant to disprove the same. In the present case, the petitioner has failed to discharge this burden.

31. Again, in **Civil Appeal no.4275 of 2017 titled as "Murlidhar Aggarwal (D) through his LR Atul Kumar Aggarwal Vs. Mahender Pratap Kakan (D) thr LRs and Ors."** Decided on 24.04.2025, the Hon'ble Supreme Court has held that requirement of landlord is to be liberally construed: -

*"25. It is well settled that the bona fide requirement for occupation of the landlord has to be liberally construed and, as such, even the requirement of the family members would be covered. [See **Joginder Pal v. Naval Kishore Behal**, (2002) 5 SCC 397 and **Dwarkaprasad v. Niranjana and Anr.**, (2003) 4 SCC 549]"*

32. Further, in **Sarla Ahuja v. United India Insurance Co. Ltd. 1998 (8) SCC 119**, the Hon'ble Supreme Court has held Rent Controller should not proceed on the assumption that the landlord's requirement is not bonafide.

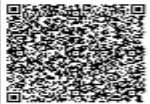


When the landlord shows a prima facie case a presumption that the requirement of the landlord is bonafide is available to be drawn. It is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without giving possession of the tenanted premises. While deciding the question of bonafides of the requirement of the landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself.

33. Even further, it is a settled position of law that the revisional jurisdiction of this Court is limited and does not extend to re-appreciation of evidence unless the findings are perverse or suffer from patent illegality. In this regard, reference is made to **Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh 2014 9 SCC 102**, wherein it has been categorically held by the Hon'ble Supreme Court that revisional jurisdiction of the High Court under the Rent Control Acts does not extend to reappraising evidence or altering factual findings unless these findings are perverse, arbitrary, or based on no evidence. The role of this Court is confined to ensuring the legality, regularity, and propriety of lower court orders, not to function as a second appellate court, which is absent in the present case.

34. Reliance placed by the petitioner upon the aforesaid judgments, is misplaced as the said judgments are distinguishable on facts and law. Moreover, learned counsel for the petitioner is unable to controvert or dispute the above said facts, findings, and legal position.

35. In view of the above noted, factual and legal position, the present Revision Petition is **dismissed**.



36. Pending application, if any, stands disposed of.

16.04.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No