



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

262

CR-5521-2022 (O&M)

Date of Decision: 25.03.2026

RENU GUPTA AND OTHERS

.....Petitioners

Vs.

M/S PIONEER TIMBER THROUGH PARTNER AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Divanshu Jain, Advocate
for the petitioners.

Mr. Gaurav Mohunta, Sr. Advocate assisted by
Mr. Kunal Mulwani, Advocate and
Mr. Gaurav Gogna, Advocate
for the respondents.

SUDEEPTI SHARMA J. (Oral)

1. Present Civil Revision is filed for setting aside order dated 23.09.2022 passed by learned Appellate Authority, Chandigarh, whereby the appeal filed by the respondents was allowed and the rent petition filed by the petitioners was dismissed.

2. Learned counsel for the petitioners contends that appeal filed by the respondents was allowed by learned Appellate Authority only on the ground that the demised premises is resumed and writ petition challenging the orders of resumption is pending before this Court. He further contends that no other issue on merits was decided by learned Appellate Authority.

3. Learned counsel for the respondents does not dispute the same.

4. I have heard learned counsel for the parties and perused the whole file with their able assistance.



5. It would be opposite to reproduce issues framed by learned Rent Controller as well as the relevant portion of finding given by learned Appellate Authority.

“7. On the pleadings of the parties, following issues were framed:-

(1) Whether the petitioners are entitled to seek the eviction of the respondents on the grounds mentioned in para no.5 clause A & B? OPR

(2) Whether the present rent petition as framed is not maintainable? OPR

(3) Whether the plot in question has been resumed by the Estate Office, Chandigarh? OPR

(4) Whether the petitioners have filed the present petition just to harass the respondents? OPR

(5) Whether there exists no relationship of landlord and tenant between the parties? OPR

(6) Whether the petitioners have not come to the court with clean hands? OPR

(7) Whether the present petition is liable to be dismissed as the petitioners have filed number of petitions against the respondent? OPR

(8) Whether all the ingredients of Section 13 of the East Punjab Urban Rent Restriction Act have not been complied with? OPR

(9) Whether the petitioners are not owners of the demised premises? OPR

(10) Relief.

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16. After considering the rival contentions of both the sides, it is observed that learned Rent Controller, no doubt has decided issue no.1 about personal necessity of the premises in question in favour of the petitioners and against the respondents and in consequence to such decision, has decided issues no.2 to 9 also in



favour of the petitioners and against the respondents without taking into consideration the admitted position on record that prior to the filing of the petition in question Estate Office, Chandigarh had resumed premises in question through its letter which has been proved by the appellants on record as Ex.R-1/1/A and also the admitted position on record that such resumption letter/proceedings were challenged by the appellants in the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 1838 of 2008, it is also on record that the Hon'ble High Court through its order dated 07.02.2008 which has been proved by the appellants on record as Ex.R-1/1/B stayed dispossession of the appellants from the premises in question. Both the parties were in agreement during arguments of the present appeal that the said writ petition is pending decision before the Hon'ble High Court and the said stay order is also continuing till date. As against the said admitted position on record, the present rent petition was filed by the petitioner before the learned Rent Controller. It means that on the date of filing of the rent petition, the above stated stay order of dispossession in favour of the appellants was in force and was continuing. If it was so, before getting the above stated stay order vacated from the Hon'ble High Court, the petitioners-respondents could not have filed the rent petition against the appellants. In fact, even if the petitioners had filed it, it could not have been allowed, thereby directing the eviction of the appellants from the demised premises during currency/continuing of the above stated stay order of his dispossession in his favour. In other words, during continuance of the said order, the rent petition filed by



the petitioner against the appellants-respondents was not maintainable. However, without going into the said material aspect, although the learned Rent Controller framed issue of the maintainability of the petition, yet, decided the said issue in favour of the petitioners and against the appellants-respondents keeping in view the findings rendered by it on issue no.1 which related to the personal necessity of the petitioner. The impugned judgment shows that no independent finding on issue no.2 which was necessary in the present case and in the circumstances has been rendered by the learned Rent Controller. It rather appears that order of eviction passed against the appellants-respondents is contrary to the abovesaid stay order of dispossession passed by the Hon'ble High Court in favour of the appellants-respondents. In such factual circumstances, judicial propriety rather demands that the petitioners should first of all get the above stated writ petition decided or the abovesaid stay order vacated. The present rent petition at her instance can only be treated as maintainable only after such decision/vocation. However, such are not the facts in the present case. The said petition is till date pending and the said stay order is still till date continuing. In view of such pendency/continuance no order of eviction of appellants-respondents from the premises in question could have been passed. In the present appeal, the appellants-respondents have challenged the finding rendered by the learned Rent Controller in issue no.2 also. In my considered opinion, keeping in view such factual position, the finding rendered by learned Rent Controller on issue no.1 could not have led to the decision of issue no.2 in favour of the petitioners and



against the appellants-respondents. Therefore, findings rendered by learned Rent Controller on issue no.2 cannot legally be sustained and deserves reversal. The finding of the said issue is accordingly reversed and while deciding issue no.2 in favour of the appellants-respondents and against the petitioners, it is held that the present rent petition during continuance of abovesaid stay order in favour of the appellants-respondents was not maintainable.

So far issue no.3 is concerned, it was argued before me that the premises in question has already been resumed by the Estate Office, Chandigarh but the learned Rent Controller decided issue no.3 against the appellants-respondents are in favour of the petitioners. However, the record of the petition in question shows and establishes that the suit property was resumed by the Estate Office Chandigarh in the year 2002 and against the said resumption the petitioners did not file any proceedings. There is no evidence on record in that regard. No doubt, it has come on record that the appellants-respondents have challenged the resumption order of proceedings in abovesaid writ petition but the fact remains that the Estate Office, Chandigarh has resumed the demised premises. In view thereof the findings rendered by the learned Rent Controller on issue no.3 can also not been legally and factually sustained. It is also accordingly reversed. The said issue is decided in favour of appellants-respondents and against the petitioners.

So far as issue no.8 is concerned, during course of arguments it was also contended on behalf of appellants-respondents that the findings rendered by learned Rent Controller on issue no.8 also cannot be



legally sustained as on the date of filing of the petition, the petitioner was not owner of the demised premises. Although the said argument appears to be contradictory to the appellants-respondents that he is the tenant of the demised premises yet if the said argument is taken to its depth, it comes out that on the date of filing of the petition in question, the demised premises stood resumed by Estate Office, Chandigarh. Although the petitioners say that the resumption proceedings are pending decision in the above said writ petition she nowhere has come forward with a plea that she challenged the said proceedings in any competent Court/forum of law/jurisdiction. In the absence of her such plea it has to be held that the said writ petition qua her has attained finality. Accordingly, she ceases to be owner of the demised premises on such finality. The said resumption order was passed on 19.03.2002 whereas the present rent petition was filed on 30.10.2008. It shows that on the date of filing of the present rent petition, the said resumption order/proceedings qua the petitioners have attained finality and she cannot be treated as owner of the demised premises on the date of filing of present rent petition. Accordingly, it is held that on the date of filing of the present rent petition, the petitioner has ceased to be owner of the demised premises. The finding recorded on issue no.8 by the learned Rent Controller are accordingly modified in the above said terms.

Further, so far as the ground of arrears of rent is concerned that is not pressed for as the appellants-tenants are paying the mesne profits as per the order dated 28.02.2018 passed by the Hon'ble High Court in CR No.1058 of 2018 (O&M).



*Further, it is observed that if we minutely go through the cross-examination of PW3 Vinod Aggarwal it is found that the need of the petitioners is not bonafide but just a desire. There is only bald statement of Shri Vinod Aggarwal son of late Shri Om Parkash Aggarwal in the form of affidavit Ex.PW3/A to prove the ground of personal use and occupation. It is submitted by Shri Vinod Aggarwal in his affidavit that he and other petitioners jointly own SCF No.180, Grain Market, Sector 26, Chandigarh, wherein, the front main portion is let out to M/s Jain Traders against whom also a rent petition for their eviction is pending in the Court of Shri Mahesh Grover, Rent Controller, Chandigarh. His younger brother is doing his business from the small portion of the said SCF on the rear side. He was carrying on his wholesale business of Hardware, photo framing and floor and wall tiles from SCO No.20, Sector 18C, Chandigarh which he had to vacate on the insistence of the landlord in 2008. But nothing is brought on file to prove the said facts. In these circumstances, the ground of personal necessity as alleged by the landlord is also does not appeal to be bonafide because even earlier the eviction petitions were filed by the petitioners and after getting the things settled fresh tenancy was created in which the rate of rent was increased. As such, the authority referred by learned Rent Controller i.e. **Raghunath G.Panhale Vs. M/s Chagan Lal Sudarji and Company 1999 (2) RCR 485** is not helpful to the case of the petitioners because in the said case it is specifically mentioned that the word 'reasonable' connotes that requirement is not fanciful or unreasonable. It cannot be mere desire.*



As such, it is observed that it is a mere desire or wish of the petitioners to get the premises vacated.

The authorities cited by learned counsel for the respondents are not helpful to the case of the respondents being distinguishable on facts and law.

Before parting with the present judgment, it is necessary to observe that the learned Rent Controller has decided issue no.1 about personal necessity of the demised premises in favour of the petitioners and against the appellants. However, since the present rent petition has been held to be not maintainable during the continuance of the said stay order in the facts and circumstances involved in the present case, it will be appropriate to say that learned Rent Controller should not have decided issue no. 1 in favour of the petitioners and against the respondents. Moreover, at the cost of repetition as discussed above, it appears from the facts and circumstances and the evidence led by both the parties that the petitioners want to get the premises vacated to increase the rent and not because of their personal necessity.”

6. A perusal of above referred to finding shows that learned Appellate Authority had allowed the appeal only on the ground of resumption of the demised premises and pendency of writ petition i.e. CWP-1838-2008, challenging the orders of resumption. Learned Appellate Authority did not decide the issues framed by learned Rent Controller.

7. Therefore, both the parties are *ad idem* to remand the matter to the Appellate Authority to decide the appeal afresh on merits.

8. In view of the same, the present revision petition is disposed of with the direction to the Appellate Authority to decide the appeal filed by the



respondents afresh on merits within a period of two months from the date of receipt of copy of this order, after giving opportunity of being heard to both the parties, in accordance with law.

9. All pending Misc. application(s), if any, also stands disposed of.

25.03.2026

(SUDEEPTI SHARMA)

P. Seth

JUDGE

Whether speaking/non-speaking : Yes/No
Whether reportable : Yes/No