

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****202****CR-7110-2023 (O&M)****Date of decision: 06.04.2026****Naveesh Kumar****...Petitioner(s)****Vs.****Manju Bhasin and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Amrish Kumar Jain, Advocate
respondent No.1.

NIDHI GUPTA, J.

Present Civil Revision Petition has been filed by the tenant seeking setting aside of the order dated 05.11.2022 passed by learned Rent Controller, Amritsar, whereby Eviction Petition filed by the landlady/respondent No.1 under Section 13 of the East Punjab Urban Rent Restriction Act, has been allowed; **AND** order dated 09.11.2023 passed by learned Appellate Authority, Amritsar; whereby the Rent Appeal filed by the petitioner/tenant/respondent No.3 in the Eviction Petition, has been dismissed.

2. Brief facts of the case are that the landlady/respondent No.1 had filed a Rent Petition under Section 13 of the East Punjab Urban Rent restriction Act (hereinafter referred to as 'Act') for ejectment of the petitioner and perform respondents No.2 and 3 herein from the demised premises on grounds of: (a) non-payment of rent; (b) demises



premises being unfit and unsafe to human habitation; (c) bonafide requirement; and (d) on ground of subletting. Vide judgment dated 05.11.2022 passed by learned Rent Controller, Amritsar, the landlady's Petition was allowed as landlady succeeded in proving that arrears of rent were subsisting against the petitioner; and landlady succeeded in proving her bonafide requirement; and that the demised premises were unfit and unsafe for human habitation. The relevant para is as under: -

"21. In view of my findings on the above said issues, petition of the petitioner succeeds and the same is hereby allowed and respondents are directed to pay the arrears of rent and to hand over the vacant possession of the demised shop to the petitioner within period of one month from date of passing of this order, failing which, petitioner shall be entitled to execute this order through the process of court and as per the law and rules. The petitioner is also awarded proportionate costs. Memo of costs be prepared accordingly. File be consigned to the record room after due compilation."

3. The Rent Appeal filed by the petitioner was dismissed by the learned Appellate Authority, Amritsar vide judgment dated 09.11.2023. Hence, present Revision Petition by the Tenant.

4. It is *inter alia* submitted by learned counsel for the petitioner that learned Courts below were in patent error in directing the eviction of the petitioner from the demised premises as they failed to take into account that landlady had failed to step into witness box. It is submitted that GPA of the landlady, who is also her daughter, had appeared as AW1. However while appearing as AW1, GPA of the landlady has



admitted that she does not know about the contents of the Rent Note; that she does not have any knowledge about the execution of the Rent Note; although she is appearing as Attorney on behalf of her mother but she does not know the facts of the case; although she has Power of attorney Ex.A1 from her mother, but she has not been authorised/instructed by her mother to file Eviction Petition. It is contended that therefore, landlady has failed to establish the grounds taken in the Eviction Application as her own Attorney has admitted that she does not know facts of the case.

5. It is further submitted that by learned counsel for the petitioner that both the courts below have failed to take into consideration that the landlord as well as her daughter are residents of Muzaffar Nagar, Uttar Pradesh whereas the demised premises are situated in Amritsar. It is highly improbable that the respondent who has pleaded that she is unable to move or for that matter her daughter who is settled in UP would come and run a physiotherapy Centre in Amritsar. Further absolutely no evidence has been led by the landlady or her daughter that she is having any qualification/education pertaining to physiotherapy or has any experience of running a Physiotherapy clinic. Therefore, bonafide necessity set up by the respondent No. 1 is only a made-up ground to seek eviction of the tenants.

6. Learned counsel for the petitioner further submits that the Ld. Courts below have also erred in law while ordering eviction on the ground of the shop being unfit and unsafe. The Ld. Courts below have



placed undue reliance upon the report of the building expert namely Arvinder Singh. It is not in dispute that the said witness has been produced by the landlord and also paid by the landlord and therefore, was bound to give evidence in favour of his pay master.

7. It is accordingly prayed that the impugned judgments cannot be sustained and deserve to be set aside.

8. *Per contra*, learned counsel for the respondent No.1/landlady vehemently opposes submissions advanced on behalf of the petitioner/tenant and submits that the deposition of AW1 Miss Tanvi Shah Bhasin daughter of landlady Manju Bhasin are deliberately misread and misconstrued by the petitioner as all that AW1 has stated is that as the Rent Note has been executed in Urdu language, and she is not well versed with the same. It is further submitted that petitioner has been unable to dispute or discredit the other findings of both the Courts below in respect of the demised premises being unfit and unsuitable for human habitation. Contention of the petitioner that the expert witness called by the respondent to determine the fitness of the demised premises for human habitation was not an Engineer, is without merit. Even otherwise, petitioner has led no evidence to controvert the same. Accordingly, dismissal of the present Civil Revision is prayed for.

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



10. Landlady has sought eviction of the petitioner from the demised premises primarily on 4 grounds being: (a) non-payment of rent; (b) demises premises being unfit and unsafe to human habitation; (c) bonafide requirement; and (d) on ground of subletting.

11. The petitioner has admitted before the Courts below that they/Tenants have paid rent only upto December 1990. It is preposterous to this Court that the petitioner and other tenants have continued to occupy the demised premises without payment of rent from December 1990 till filing of the Rent Petition on 28.05.2015 i.e. for a period of 25 years; and even thereafter. On this short ground itself, present Petition deserves to be dismissed.

12. Further, the landlady has succeeded in proving her bonafide requirement of the demised premises to settle her daughter as a Physiotherapist in the demised premises. To prove her case, the landlady has examined AW1 Tanvi Shah Bhasin, AW2 Arvinder Singh and proved Inspection report Ex.AW2/1, Technical report Ex.AW2/2, photographs Ex.AW2/3. All these witnesses have deposed in regard to the genuineness of the requirement of the landlady and her necessity of the demised premises for her daughter AW1. On the other hand, petitioner has only made a bald assertion that requirement of the landlady is not bonafide and that she does not require demised premises for any other work.

13. To support his abovesaid contention, petitioner has referred to deposition of AW1 wherein, she had purportedly admitted that she



does not have knowledge of the Rent Note or the facts of the case. However, perusal of the deposition of AW1 shows that she has also stated that “..... *It is correct that I cannot tell the authenticity or the contents of rent document which is Ex. AB as it is in Urdu neither I can authenticize its hindi translation, In is correct that I have no personal knowledge who executed the rent note whether it is by proprietor firm or partnership firm or by Mr. Raj Kumar in individual capacity or by Nand Kishore and Roshan Lal or by who so ever. I am unmarried. I have done Physiotherapy. I have not placed on file my professional degree vol. But I have brought the original degree with me.*” Thus, the deposition of AW1 has to be read in its entirety and cannot be read piecemeal and out of context to serve the self-serving statement of the petitioner. Moreover, notwithstanding the deposition of AW1, petitioner has himself not denied the landlord-tenant relationship between the parties. Petitioner in his cross-examination has also admitted that respondent No.1 is shown to be the owner/landlady in the records of the Municipal Corporation.

14. Thus, from the above facts, it is clear that respondent No.1 had succeeded in proving her bonafide requirement of the demised premises for the settlement of her unmarried daughter.

15. Landlady had also sought eviction of the petitioner from the demised premises on the ground of same being unfit and unsafe for human habitation. To prove the same, landlady has examined Expert Witness Sh. Arvinder Singh who had submitted his Report Ex.AW2/1;



wherein he had stated that the demised shop has become unfit and unsafe for human habitation. AW2 has specifically observed that cracks on the walls were filled with cement and same is visible in photographs. The roof of premises is made of wooden planks, to which the tenants have made additions and alterations by covering the ceiling of roof by PVC sheets without the permission of the landlady. This fact was admitted by the tenants in their evidence. The Report Ex.AW2/1 also mentions that woodwork is eaten by white ants. Admittedly, tenants had not examined any Expert witness of their own to controvert the evidence led by the landlady. Rather petitioner as DW1 has admitted in his cross-examination that Report of the Expert seems to be fair as it was admitted that tenants have installed PVC and flooring mats without consent of the landlady. The tenants also did not deny that the demised shop is more than 50 years old. Needless to say, age of the building plays an important role in assessing as to whether the building is unsafe, unfit or not.

16. In this regard, reference may be made to Division Bench judgment of this Court in **Sardarni Sampuran Kaur v. Sant Singh, (P&H) (DB) : Law Finder Doc ID # 57106; decided on 19.02.1982**, wherein it is held that: -

“A. East Punjab Urban Rent Restriction Act, 1949, Sections 13(3)(a)(iii) and 2 - Building partly occupied by tenant and partly by landlady - Portion in occupation of landlady becoming unsafe for human habitation - Landlady whether entitled to eject tenant from part of building under his occupation (Yes).



1970 PLR 411(DB) relied. 1966 Court L.J. 772 and 1968 PLR 803 approved C.R. 1711 of 1977, decided on 18.4.1980 overruled.

If the substantial part of the integrated larger building has become unsafe and unfit for human habitation the tenant can be ejected from the demised premises forming part thereof, under Section 13(3)(a)(iii) of the Act despite the fact that the particular portion in his occupation may not be so.

B. East Punjab Urban Rent Restriction Act, 1949, Section 13(3)(a)(iii) - Scope and application of Section 13(3)(iii) explained - Underlying purpose of this Section is Urban renewal.

Section 13(3)(a)(iii), visualises the reconstruction of the building either at the behest of the Government or other authority or in the event of its being rendered unsafe or unfit for human habitation. The provision here does not seem to look at the matter in a narrower legalistic term of the individual rights of the tenants and landlords but perhaps on the larger social purpose of not obstructing urban renewal and the remodelling and reconstruction of structures either for their betterment at the instance of public authority or where they have outlived their usefulness and become unsafe and unfit for human habitation.

XXX XXX XXX

18. To conclude the answer to the question posed in para 2 above is rendered in the affirmative and it is held that if the substantial part of the integrated larger building has become unsafe and unfit for human habitation the tenant can be ejected from the demised premises forming part thereof under Section 13(3)(a)(iii) of the Act despite the fact that the particular portion in his occupation may not be so.”



17. Reliance may be placed upon judgment of this Court in **Amarjit Kaur v. Tilak Raj Ahuja (P&H) : Law Finder Doc ID # 397925; decided on 08.08.2012**, wherein it is held that: -

“Building unfit and unsafe for habitation - It can never be a wish of the Court and of the parties that the building that is said to be uninhabitable must be such as it would collapse and cause casualties to litigants during its long journey in Court.

Unless a building is really of archaeological value, there is no reason why a landlord should allow the building to go into ruins and allow it to be preserved in that state.

East Punjab Urban Rent Restriction Act, 1949, Section 13(3)(iii)

- Eviction - Building unfit and unsafe for human habitation - It can never be a wish of the Court and of the parties that the building that is said to be uninhabitable must be such as it would collapse and cause casualties to litigants during its long journey in court - Report of Building Expert showing that there were cracks at several places and the walls were not true to the plumb - The parapet on front side was found missing entirely - Expert had also noted that doors had been broken and it was not fit for human habitation - There was also evidence brought that neighbours had their own shops on separate foundation - Evidence of landlord that the level of floor had sunk, front portion of first floor had fallen during time of trial, this fallen portion was reconstructed during of course of trial - Appellate Court found that report of building expert was detailed and it was verily a clincher - Eviction order is founded on appropriate inferences from the evidence led by the parties, confirmed - Petition dismissed.

XXX XXX XXX

4. Unless a building is really of archaeological value, there is no reason why a landlord should allow the building to go into total



ruins and allow it to be preserve in that state. The learned counsel appearing on behalf of the petitioner passionately argues that after all the building has not completely collapsed, although, the case has been instituted in the year 1983 and the fact that the building has survived this litigation itself shows that the condition of the building as stated to be unfit and uninhabitable cannot be true. We must only see that if the building had not completely collapsed during this long litigation, the parties have been fortunate that extent. It can never be a wish of the Court and of the parties that the building that is said to be uninhabitable must be such as it would collapse and cause casualties to litigants during its long journey in Court.”

18. Reliance may also be placed upon judgment of this Court in **Tripta Devi v. Jagdish Kumar, (P&H) : Law Finder Doc ID # 132108; decided on 23.05.2007**, wherein it is held that:-

“East Punjab Urban Rent Restriction Act, 1949, Section 13(3)(a) (iii) - Unsafe and unfit for human habitation - Substantial portion of building fell down and became unfit and unsafe for human habitation - Tenant liable to eviction though portion of building occupied by tenant may not be in dilapidated condition. 1982(1) RCR (Rent) 413 (P&H) relied.

XXX XXX XXX

10. Undisputedly, it is also admitted position that some portion of the first floor of the disputed shop had fallen down and malba of that portion was lying on the roof of the disputed shop. This fact has been established even from the report (Ex. A3) of the Local Commissioner appointed in the civil suit filed by the respondent tenant and from the report (Ex. R1) of the Expert Sushil Kumar (RW2) produced by the tenant. In the reports of both the Experts, it has been stated that there are



cracks in the wall of the demised shop. However, the Expert produced by the tenant suggested that those cracks could be repaired. It is an admitted fact that the entire building is an old one. Even the Appellate Authority has come to the conclusion that the bigger building to which the demised shop is a part, has become unfit and unsafe for human habitation. But the Appellate Authority has discarded the evidence while observing that this plea was not taken by the landladies in their ejectment application. In my opinion, the landladies are only required to take the plea that the demised premises has become unfit and unsafe for human habitation. They can prove this fact by leading evidence including to the effect that the demised shop is a part of the bigger building and that the substantial portion of that building has become unfit and unsafe for human habitation. This Court in Sardani Sampuran Kaur's case (supra) has clearly held that if the substantial part of the integrated larger building has become unfit and unsafe for human habitation, the tenant can be ejected from the demised premises forming part thereof under Section 13 (3)(a) (iii) of the Act despite the fact that the particular portion in his occupation may not have become unfit and unsafe for human habitation. This principle was subsequently followed by this Court in Bishan Dass v. Smt. Phullan Rani and another, 1986(1) RCR (Rent) 475 : (1986-189 PLR 214, where a part of the superstructure above the shop has fallen down and due to that some cracks appeared in the walls of the shop, it was held that since the substantial part of the integrated larger building has become unfit and unsafe for human habitation, the tenant is liable to be ejected from the shop in question also. In this case, undisputedly not only one room on the roof of the demised shop, but other rooms on the back portion of the shop had fallen down and deep cracks have been appearing in the walls



of the shop. In such situation, in my opinion, the demised shop being part of the larger building, substantial portion of which has become unfit and unsafe for human habitation, is also liable to be vacated by the tenant on the ground that it has become unfit and unsafe for human habitation. In my opinion, the reasoning given by the Appellate Authority discarding those evidence on ground that there was no specific pleading, is not justified. Both the parties led their evidence by fully knowing the stands taken by each other. The tenant has been provided full opportunity to contest the claim of the landladies. It is not the case of the tenant that some prejudice has been caused to him by not particularly pleading a fact. In these circumstances, in my opinion, if the substantial part of the integrated larger building has become unfit and unsafe for human habitation, the tenant can be ejected from the demised premises forming part thereof under Section 13(3)(a)(iii) of the Act despite the fact that the particular portion in his occupation may not be in dilapidated condition. The other factor taken by the Appellate Authority that the landladies filed the ejectment application with mala fide object after four months of the purchase of the demised premises, is a conjecture and on such plea the right of the landladies to get the demised premises vacated on the ground that the same has become unfit and unsafe for human habitation, cannot be denied.”

19. Thus, it is not necessary to wait for the building to collapse before directing eviction of the tenants. Further, in the facts of the present case, in view of the arguments raised by Id. counsel for the petitioner, reference is also made to a judgment of the Hon’ble Supreme



Court in **Flora Elias Nahoum v. Idrish Ali Laskar, (SC) : Law Finder Doc Id # 966706**; wherein it is held that:-

“A. Suit for ejectment - Entitlement - Even if landlord is able to make out only one ground out of several grounds of the eviction - Landlord is entitled to seek eviction of tenant on basis of that sole ground.”

The relevant para of the said judgment is as under:-

“16. There can be no dispute to the legal proposition that even if the landlord is able to make out only one ground out of several grounds of the eviction, he is entitled to seek the eviction of his tenant from the suit premises on the basis of that sole ground which he has made out under the Rent Act.”

20. In view of the afore-noted facts and legal position, present Revision Petition stands **dismissed**.
21. Pending application(s) if any also stand(s) disposed of.

06.04.2026

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No