
(2006) 02 P&H CK 0078
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 4675 of 2003

Maresh Chand

APPELLANT

Vs

Firm Hindu Khandan Mustarka Kripa Ram and Sons

RESPONDENT

Date of Decision : 24-02-2006

Acts Referred:

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

Citation : (2006) 3 CivCC 701 : (2006) 143 PLR 43 : (2006) 1 RCR(Rent) 420

Hon'ble Judges : Hemant Gupta, J

Bench : Single Bench

Advocate : V.K. Jain and Divya Sharma, for the Appellant; M.L. Sarin and Vivek Sud, for the Respondent

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—The challenge in the present revision petition is to the order of ejectment passed by the Courts below on the ground that the rented land is required for bona fide use of the landlord and that the tenant has committed such acts causing material impairment to the value and utility of the building.

2. The petitioner was inducted as a tenant on payment of rent at the rate of Rs. 41.25 P per month. It was alleged that the petitioner has carried out major addition and alterations by constructing tin shed, water tank, latrine and also constructed fresh wall upon the old wall without the permission of the landlord. It was also alleged that the petitioner has increased the width of main gate by demolishing the old gate etc. The ejectment of the petitioner was also sought on the ground that the land was let out for carrying out the business of coal and that the landlord requires the demised premises for his own personal use as his son Parveen Kumar wants to start business of stones because he is unemployed. It was pleaded that the landlord has not vacated any land after the year 1950 or that he has no other land for carrying out the business of stones.

3. Both the Courts have returned a concurrent finding of fact that the landlord is

able to prove bona fide requirement of the rented land for his own use and consequently passed an order of ejectment. It has also been found that the petitioner has materially impaired the value and utility of the building.

4. Learned Counsel for the petitioner has vehemently argued that u/s 13(3)(b) of the Act, the landlord can seek ejectment if he requires the rented land for his own use. The requirement pleaded is the requirement of his son and there are the order of ejectment could not have been passed by the authorities under the Act. Reliance is placed upon a Division Bench judgment of this Court reported as *Ravinder Kumar v. Gian Chand* (1986) 90 P.L.R. 25 and *Shrimati Sukhnandan Kaur v. Ram Chand* 1989 (1) RCR 396. It is also argued that the son, whose requirement has been pleaded has not been examined as a witness. It is Parveen Kumar alone who could depose that other property owned by the landlord is not suitable for the business of stones.

5. The judgment of Division Bench referred to by the learned Counsel for the petitioner is, in fact, specifically overruled by Hon''ble Supreme Court in *Joginder Pal v. Naval Kishore Behal* (2002) 131 P.L.R. 625. The said case examined the *pari materia* provisions contained in Section 13(3)(a)(ii) of the East Punjab Urban Rent Restriction Act, 1949. It has been held therein to the following effect:

24. We are of the opinion that the expression for his own use as occurring in Section 13(3)(a)(iii) of the Act cannot be narrowly construed. The expression must be assigned a wider, liberal and practical meaning. The requirement is not the requirement of the landlord alone in the sense that the landlord must for himself require the accommodation and to fulfill the requirement he must himself physically occupy the premises. The requirement of a member of the family or of a person on whom the landlord is dependent or who is dependent on the landlord can be considered to be the requirement of the landlord for his own use....

6. The Supreme Court also contemplated that if the requirement of actual user of the premises is by a person other than the landlord himself, the Court shall with circumspection inquire (i) whether the requirement of such person can be considered to be the requirement of the landlord, and (ii) whether there is a close inter-relation or identity nexus between such person and the landlord so as to satisfy the requirement of the first query. It was thus, concluded that it is landlord who requires the premises for his son for his office as chartered accountant and therefore, it is the land lord who requires the premises for his son. The judgment in *Ravinder Kumar's* case was found to be taking to narrow view of the provisions and it was held that it does not lay down correct law and was over-ruled.

7. In view of the judgment of the Hon''ble Supreme Court overruling the judgment referred to by the learned Counsel for the petitioner, I do not find any substance in the arguments raised by the learned Counsel for the petitioner. The argument that the son of the landlord has not appeared as a witness is again not material to determine the bona fide requirement of the landlord. The landlord

has appeared as witness and deposed in respect of the requirement. Such evidence has been believed by the courts below. Then-fore, I do not find any patent illegality or material irregularity in the findings recorded by the authorities below under the Act which may warrant interference by this Court in exercise of revisional jurisdiction.

8. Since the eviction is being upheld on the ground of requirement of bona fide use and occupation of the landlord it is not necessary to examine other grounds of eviction in the present revision. The same is dismissed with costs. The costs are assessed at Rs. 10,000/-