

(2021) 04 SHI CK 0271
In the High Court Of Himachal Pradesh
Case No : Civil Revision No.07 Of 2020

Rikhi Ram Amar Nath

APPELLANT

Vs

Chamba Mal Bhagra (Since Deceased), Through His Legal
Representatives Vishal Sood & Another

RESPONDENT

Date of Decision : 29-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 151, Order 22 Rule 3
Himachal Pradesh Urban Rent Control Act, 1987 — Section 14

Citation : (2021) 04 SHI CK 0271

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Neeraj Gupta, Ajeet Jaswal, Ajay Kumar Sood, Sumit Sood

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. By way of this Civil Revision, the petitioner has prayed for the following reliefs:-

" It is, therefore, prayed that after calling for the record of the case from the Court of learned Rent Controller (2), Shimla (H.P.) the present petition may be accepted and impugned Order dated 13.12.2019 passed by Learned Rent Controller Court No.(2) Shimla (HP) in Rent Petition Case No.18-2 of 2016/12 may be ordered to be set aside and consequently the application under Order 22 Rule 3 read with Section 151 of the Code of Civil Procedure filed by landlords-respondents may be ordered to be dismissed with costs, by passing such further order as may be deemed fit in the facts and circumstances of the case."

2. Brief facts necessary for the adjudication of the present petition are as under:-

The predecessor-in-interest of the respondents herein filed an Eviction Petition against the present petitioner, under Section 14 of the H.P. Urban Rent Control Act, 1987. The premises in issue are non-residential and in terms of the contents

of the Eviction Petition, the demised premises are a shop, approximately measuring 450 square feet, in the ground floor of the building and a godown/store with approximately same area in the first floor of the building, No.48, Lower Bazar, Shimla, H.P. The grounds mentioned in the petition for eviction of the tenant, inter alia, are that the eviction of the tenant is sought, as the demised premises were bonafidely required by the landlord for his personal use and occupation and for setting up business. It further stood mentioned in the Eviction Petition that the landlord, who was doing retail business of electrical parts and equipment in a rented shop at Middle Bazar, Shimla, H.P., bonafidely required the rented accommodation for his own use, with a view to start new business with his son and grand-son. During the pendency of this petition, the landlord died.

3. The respondents herein filed an application, under Order 22, Rule 3 read with Section 151 of the Code of Civil Procedure Code, before learned Rent Controller, Shimla, District Shimla, H.P., for impleading them as legal representatives of the deceased landlord. It was mentioned in the application that petitioner/landlord (Chamba Mal Bhagra) had expired on 24.10.2018. The deceased (Shri Chamba Mal Bhagra), vide Will dated 03.10.2018 had bequeathed the rented accommodation in favour of the applicants, i.e. his grand-sons, to succeed his estate, which was in possession of the respondents. As per the applicants, as they had stepped into the footsteps of the deceased/landlord and had become owners of the property in question, they prayed for their impleadment as legal heirs of the deceased/landlord.

4. The application was resisted by the tenants, inter alia, on the ground that the applicants had failed to supply the copies of Will and mutation etc. and the application was otherwise not maintainable, as the Eviction Petition was filed by the landlord/petitioner, on the grounds of his personal use and occupation and after the death of Shri Chamba Mal Bhagra, the alleged requirement had ceased to exist.

5. This application was allowed by the learned Rent Controller, vide order dated 13.12.2019. Learned Rent Controller, after taking into consideration the respective stand of the parties held that the factum of Shri Chamba Mal Bhagra having executed a Will, dated 03.10.2018, whereby he bequeathed and devised the demised premises in favour of his grand-sons, was not disputed by the tenant and the objection taken was that as deceased/landlord was having one son and one daughter, therefore, they were required to be impleaded as legal representatives. Learned Rent Controller held that the copy of Will and Mutation attested on the basis of the same were placed on record and perusal thereof demonstrated that as the grand-sons of original petitioner, namely Vikas Sood and Vishal Sood, were bequeathed the property, therefore, they could be termed to be the legal representatives of deceased Chamba Mal Bhagra, as they had entered into his shoes as landlords and owners of the demised premises. Learned Court held that the contention of the tenant that as the petition was filed by the

landlord on the ground of his bonafide requirement and the same ceased to exist after his death was concerned, was having no merit in view of the law laid down by the High Court of Himachal Pradesh, in Civil Revision No.124 of 2019, titled M/s Kanshi Ram Amar Nath Versus Vikas Sood & anrs, decided on 23.09.2019. Learned Rent Controller held that the legal representatives of Shri Chamba Mal Bhagra had every right to pursue the eviction petition and on these basis, it allowed the application, filed under Order 22, Rule 3 of the Code of Civil Procedure and impleaded the grand-sons of Shri Chamba Mal Bhagra, i.e. the present respondents, as petitioners/ landlord.

6. Feeling aggrieved, the tenant has filed the present Revision Petition.

7. I have heard learned counsel for the parties and have gone through the impugned order as well as other record appended by the parties, alongwith the pleadings.

8. In my considered view, the contention of learned Senior Counsel, appearing on behalf of the petitioner that the impugned order is not sustainable in the eyes of law, as learned Rent Controller has erred in not appreciating that as the eviction of the tenant was sought by the landlord for his own personal use, therefore, the right ceased to exist after the death of the landlord in the facts of this case, is without merit.

9. I have already enumerated hereinabove the contents of para-18 of the Eviction Petition i.e. the grounds on which the eviction was sought of the tenant by the landlord. It is specifically mentioned in the said para that eviction of the tenant was sought by the landlord on the ground that the rented premises were bonafidely required by the landlord for his personal use and occupation for setting up a business with his son and grand-sons. It is also pleaded in para-18 of the petition that the landlord, his son Ravinder Sood and grand-son Vishal Sood were all dependent on earnings, which they earned from the business being run in a rented shop at Middle Bazar, Shimla, H.P., which earnings were hardly sufficient for needs and requirements of the family. It further stood pleaded that the landlord's grand-son was of marriageable age and on account of change in financial requirements and needs of the family, the petitioner intended to set up business in the rented accommodation with a view to increase his income and help his son and grand-son to earn their livelihood and raise their standard of leaving. Further it was pleaded that the petitioner alongwith his son and grand-son had decided to open a departmental store or Multi-National Brand Show Room in the same with a view to increase their income as per the change in financial requirements of the family.

10. In my considered view, said pleadings clearly demonstrate that the eviction of the tenant was not sought by the landlord for his own personal use and occupation only as is being contended by the tenant, but the eviction was sought for personal use and occupation for setting up business of the then landlord as well as his son and grand-sons. It is not in dispute that by way of Will dated

03.10.2018, the property stood bequeathed by the landlord in favour of his grand-sons, alongwith one of whom, he intended to start business in the demised premises after getting the same vacated from the tenant.

11. In this view of the matter, this Court finds no infirmity with the order passed by learned Court below, vide which the application filed by the present respondents, under Order 22, Rule 3 read with Section 151 of the Code of Civil Procedure, for being impleaded as petitioners in place of original petitioner/ landlord, who had died during the pendency of the eviction proceedings, was allowed.

12. Accordingly, this petition being devoid of any merit, is dismissed, so also pending miscellaneous applications, if any. Interim order, if any, stands vacated.