

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 3905 of 2015 (O&M)
Date of Decision: 30.06.2015.

Kuldeep Kaur (deceased) through her LRPetitioners
and another

Versus

Pushp Lata Singhal and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. Saurabh Arora, Advocate
for the petitioners.

SABINA, J.

Respondent No. 1 had filed the petition under Section 13 of East Punjab Urban Rent Restriction Act, 1949 seeking ejectment of the petitioners and respondent No. 2 from the premises in question. Learned Rent Controller vide order dated 8.7.2014 allowed the ejectment petition. Aggrieved against the said order, petitioners preferred an appeal and the same was dismissed by the Appellate Authority vide judgment dated 1.5.2015. Hence, the present petition by the petitioners-tenant.

Learned senior counsel for the petitioners has submitted that the Courts below have erred in allowing the ejectment petition filed by respondent No. 1 as respondent No. 1 had failed to establish her case. The case of respondent No. 1 was that she required the premises in question to settle her younger son. However, when Munish Kumar Singhal son of respondent No. 1 had appeared in the witness box, he had stated that he was running his business at Chandigarh and was satisfied with his life and business in Chandigarh. Learned senior counsel has further

submitted that respondent No. 1 had failed to plead in the ejectment petition that her son Munish Kumar Singhal was dependent on her. Hence, respondent No. 1 was not entitled to get the shop vacated from the petitioners on the ground of personal necessity. In support of his arguments, learned senior counsel has placed reliance on '**Koyilerian Janki and others versus Rent Controller (Munsif), Cannanore and others, 2000(9) SCC 406**, wherein it was held as under:-

“We are, therefore, of the view that in the absence of any pleading that the married daughter and the son-in-law are dependent on the landlady the appellate court was not justified in allowing the petition of the landlady on the ground that the landlady bonafide required the building for occupation of her married daughter and son-in-law.”

Learned senior counsel for the petitioners has next placed reliance on '**Deena Nath versus Pooran Lal, 2001(2) R.C.R. (Rent) 130**', wherein it was held as under:-

“Coming to the case on hand, the judgment of the High Court clearly bears out the position that the lower courts had failed to consider the requirement of the section regarding availability of reasonable accommodation in occupation of the landlord-appellant. As noted earlier, at the time of filing the suit, one vacant shop-room was in occupation of the landlord and in course of the proceedings one more shoproom, on being vacated by the tenant, came in his occupation. The High Court has found that the landlord could easily make arrangements for

starting the shop which his son Pradeep Kumar Gupta intends to open in the vacant shoprooms. If any adjustment was necessary, then the tenant-respondent could also have been offered an alternate shoproom for his occupation. No such step was taken by the landlord during all these years. During the hearing of this appeal, we made a suggestion to the learned counsel appearing for the landlord-appellant, whether he is willing to permit the tenant-respondent to occupy the shoproom presently in his (landlord) occupation so that he may have a block of four shoprooms for the business of himself and his son. The learned counsel stated that the landlord, who was present in the Court, declined to accept the suggestion.”

In the present case, ejectment petition was filed by respondent No. 1 against the petitioners on the ground that the premises in question was required by respondent No. 1 for her personal use and occupation. Case of respondent No. 1 was that she required the premises in question as she wanted to open a big showroom of electric motors and other allied goods along with her son in the demised premises as well as the adjoining shop by converting and renovating the two shops into a big modern shop by removing the intervening wall. Thus, respondent No. 1 required the premises in question for running business in the same along with her son Munish Kumar Singhal. Merely because Munish Kumar Singhal is already running a business in Chandigarh along with his other family members is no ground to hold that the necessity put-forth by respondent No. 1, was not genuine. Munish Kumar Singhal is the unmarried younger son of respondent No. 1 and wants to

now independently settle in life. It is a settled proposition of law that the landlord is the best judge qua his needs and requirement. It is the case of the landlady that the present shop as well as the adjoining shop are the most suitable shops for running their business. The landlady along with her son wants to open a big showroom of electric motors in the demised premises as well as the adjoining shop by converting and renovating the two shops into one shop by removing the intervening wall. Moreover, as per Section 13 of the Act, protection has been given to the tenant that in case the landlord fails to occupy the premises in question within the stipulated period or rents out the same to another tenant, then evicted tenant can apply for restoration of possession to the Rent Controller.

In *Koyilerian Janki's* case supra, the landlady required the premises in question for her married daughter and son-in-law. In such a case, it was necessary for the landlady to have shown that her married daughter and son-in-law were dependent on her. In the present case, the landlady required the shop in question for her own use as well as for the use of her unmarried son. Hence, the judgments relied upon by the learned senior counsel for the petitioners, are not applicable to the facts of the present case.

In the facts and circumstances of the present case, the Courts below had, thus, rightly ordered the ejectment of the petitioners from the premises in question.

No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

June 30, 2015
Gurpreet