

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No.2188 of 2020 (O&M)
Date of decision: 30th November, 2022

Rajesh Kumar

... Petitioner

Versus

Shashi Bala

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ashish Bansal, Advocate for the petitioner.

None for the caveator/respondent.

MANJARI NEHRU KAUL, J. (ORAL)

Mr. Ashish Bansal, Advocate puts in appearance and files his power of attorney along with no objection from the previous counsel on behalf of petitioner. The same is taken on record.

Petitioner/tenant is impugning the concurrent findings recorded by both the Courts below, i.e. the Rent Controller and the Appellate Authority, vide which he was ordered to be evicted from the demised premises. The parties to the *lis* hereinafter shall be referred to by their original position in the eviction petition.

The brief facts, as pleaded by the landlady, while filing the petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as, 'the Act') may be noticed as thus:-

The landlady claimed to be owner of the demised premises i.e. shop bearing No.524/3 measuring 9.5 square yards marked by letters ABCD and as shown in site plan vide sale deed vasika No.3916 dated 22.11.2006. The demised shop was rented out to the tenant in the month of October 2012 at a monthly rent of ₹ 10,000/-. The landlady sought eviction of the tenant from the demised premises on grounds of non-payment of rent from 01.08.2013 till 31.01.2017, and for personal bona fide necessity as she wanted to amalgamate the area of this shop with her own TQS Mall where her sons were running a business. It was pleaded by the landlady that since the demised shop was also required for the business of her sons, the tenant be ordered to vacate it. It was also further claimed by the landlady that the demised premises was in a damaged/dilapidated condition for which construction was also required to be carried out.

On the basis of the material and other evidence led, both the Courts below ordered eviction of the tenant from the demised premises and ordered him to hand over the vacant possession to the landlady. Hence, the present revision.

Learned counsel for the tenant submits that the impugned orders suffer from patent illegality and are contrary to the evidence led by the parties. Learned counsel contends that the courts below, while passing the impugned orders, failed to appreciate the material on record and the glaring contradictions in the testimony of the landlady as well

as her husband. Learned counsel further submits that while on the one hand, the landlady pleaded in her eviction petition that she required the demised premises for her business, however, on the other hand, during her cross-examination she admitted that she was a home-maker and not carrying out any business. Still further, learned counsel submits that the husband of the landlady had also deposed to the contrary and stated that the demised premises was required for his son's son i.e. his grandson. Therefore, learned counsel has urged that all these contradictions, when seen and appreciated in totality, clearly reveal that the landlady had not approached the Court of law with clean hands, and thus, the eviction petition filed by the landlady was erroneously allowed. Learned counsel, still further submits that the landlady did not even plead the necessary ingredients of Section 13 of the Act in her rent petition and even the son, for whose necessity the demised shop was seemingly required, did not step into the witness box. Learned counsel, therefore, vehemently prays for setting aside the impugned orders.

I have heard learned counsel for the petitioner and perused the relevant material on record.

At the outset, it would be relevant to discuss the scope of revisional jurisdiction of this Court to interfere with the concurrent findings recorded by the learned Courts below. Hon'ble the Supreme Court, in '**Hindustan Petroleum Corp. Ltd. vs. Dilbahar Singh**' **2014 (9) SCC 78**, has held that High Court should loathe to interfere

with the findings of fact unless and until such findings are blatantly perverse or would result in gross-miscarriage of justice. It would be apposite to reproduce the relevant observations and findings of the Hon'ble Apex Court in **Hindustan Petroleum Corp.'s case (supra)**:-

“43. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself as to the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness,

legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

Adverting to the case in hand, this Court finds no force in the submissions made by the learned counsel for the petitioner. The personal necessity, as set up by the landlady, comes across to be genuine and the contradictions highlighted by the learned counsel in the deposition of the landlady as well as her husband would not in any manner adversely affect the case of the landlady. Still further, in exercise of its revisional jurisdiction, this Court cannot be expected to reappraise the evidence led and interfere with the findings of fact recorded by the Courts below, more so when the said findings are in accordance with the settled law.

It would also be relevant to observe here that mere non-examination of the son of landlady would not be fatal to her pleaded case. The Hon’ble Supreme Court, in ‘**Gulraj Singh Grewal vs. Harbans Singh**’ (1993) 2 SCC 68, while examining the question as to

whether the landlord can be non-suited on the ground of non-examination of his son, for whose benefit the premises were sought to be vacated, held that in case the need has otherwise been established by leading evidence, such non-examination would not in any manner be fatal to the case of the landlord. Still further, the Hon'ble Supreme Court while reiterating the above view in '**C. Karunakaran vs. T. Meenakshi**' (2005) 13 SCC 99, held as under:-

“5. Mere non-examination of the person for whose need the building was required by itself was no ground to non-suit the landlady. In a number of decisions, [this fact is acknowledged by the first appellate court also], it has been held that it is not necessary to examine the person for whose need the premises are required. It depends on the facts and circumstances of each case.”

Furthermore, the petitioner has not been able to bring to the notice of this Court any material or evidence led before the courts below from which it could be even remotely inferred that the landlady had concealed the factum of she being in possession of any property other than non-residential property at the time of filing of the eviction petition within the municipal limits of Panipat where the demised premises is situated. No doubt, it was vehemently argued by the learned counsel that the landlady had not made a mention in her petition of she not being in possession of any other non-residential property, however it is also a matter of record and has not been denied by the learned

counsel for the petitioner either that no suggestion to the said effect was given to the landlady during her cross-examination that she was in possession of some other properties including non-residential properties in the same area or within the municipal limits of Panipat.

As a sequel to the above, the concurrent findings recorded by the Courts below suffer from no irregularity much less illegality. The revision petition, being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

November 30, 2022
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No