



CR No. 1289 of 2020

IN THE HIGH COURT OF PUNJAB AND HARYANA ATCHANDIGARH

CR No. 1289 of 2020(O&M)
Reserved on : 07.05.2025
Pronounced on: 12.05.2025

Suresh Chander & Anr.

...Petitioners

Versus

Anil Gogna (since deceased) through His LRs

...Respondents

CORAM :HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:-Mr.Kanwal Goyal, Advocate with
Ms. Sheena Dahiya, Advocate
for the petitioners.

Mr. Naresh Pratap Singh, Advocate
For the respondents.

DEEPAK GUPTA, J.

This is landlords' revision petition against the order of reversal in an ejectment case.

2. A petition under Section 13 of the *East Punjab (Urban Rent Restriction) Act, 1949* was filed by the landlords Suresh Chander and his wife Smt. Urmila Sharma (*petitioners herein*) seeking ejectment of tenant Anil Gogna from the demised premises i.e. House No. 1811, Mohalla Ariana Wala, Manimajra, U.T. Chandigarh, consisting of two rooms and a kitchen on the ground floor, as shown in the enclosed site plan with letters ABCD, on the ground of non-payment of arrears of rent and *bonafide* necessity of the petitioners. During pendency of the petition, the tenant Anil Gogna expired and his legal heirs were brought on record.

3. The ejectment petition was accepted by the learned Rent Controller vide order dated 20.12.2017 on the ground of *bonafide* need of the landlords. However, the appeal filed by the tenant Anil Gogna (through his LRs), was accepted by learned Appellate Authority vide his order dated 07.12.2019, thus, rejecting the ejectment petition.

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4. Assailing the above-said reversal, it is contended by learned counsel for the landlords (petitioners herein) that though learned Appellate Court rightly noticed the legal position that tenant has no right to dictate to the landlord as to how he has to use his property and that the need of the landlord is required to be assessed from his point of view, but the Appellate Authority failed to apply the said legal position correctly in the facts and circumstances of this case. It is further contended that apart from ignoring the cogent evidence produced by the landlords, proving their *bonafide* need for the demised premises, the Appellate Authority even ignored the testimony of the widow and one of the daughters of the deceased tenant Anil Gogna, who corroborated the case of the petitioners-landlords regarding their *bonafide* requirement for the demised premises. With these submissions, prayer is made for setting aside the impugned order dated 07.12.2019 of the Appellate Authority; and to restore the order dated 20.12.2017 of Rent Controller, whereby the ejection of the tenants was allowed.

5.1 During pendency of this revision petition, application bearing **CM-3472-CII of 2024** is also moved for directing the respondents-tenants for tendering the rent along with interest besides payment of arrears of water and electricity charges. It is submitted that ever since March 2016, the rent at the agreed rate of ₹1500/- per month has not been paid till date, apart from electricity charges of ₹73,727/- and water charges of ₹45,714/-.

5.2 Despite opportunity to the respondents-tenants, no reply to the above application has been filed, though at the time of arguments, time was sought to pay the arrears after arranging loan.

5.3 Learned counsel appearing for the respondents-tenants also opposed the main revision by submitting that learned Appellate Authority rightly came to the conclusion that petitioners-landlords have other premises in the same area, which are sufficient to satisfy their requirement and, therefore, the need of the landlords for the demised premises, was

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not *bonafide*. With these submissions, he prayed for dismissal of the revision petition.

6. This Court has considered the submissions of both the sides and have appraised the paper-book.

7. As per case of the petitioners, the demised premises forming part of House No. 1811 Mohalla Ariana Wala, Manimajra, U.T. Chandigarh were in occupation of the respondents - tenants prior to purchase of the entire premises by the petitioners vide sale deed dated 05.02.2015. The petitioners-landlords are in possession of one room of the same premises. It was pleaded that the petitioners required the demises premises as their son is of marriageable age and they want the premises for him. The daughter of the petitioners is married in Manimajra itself, who keep on visiting the petitioners. The petitioners pleaded further that though they are owners of another property bearing No. 1745/1, Main Bazar, Manimajra, U.T. Chandigarh, but the same is situated in commercial area and its ground floor is being used as shop, whereas first & second floor is being used for residence by the petitioner and their family, which was not sufficient for the petitioners and so, they required the demised premises for their personal use. It was also pleaded that another house N: 1737/1, Kanti Bhalla Gali, Manimajra, Chandigarh owned by the petitioners was being used for the purpose of manufacturing and storing confectionary items. It was pleaded that in these circumstances, the petitioners required the demised premises for their *bonafide* need.

8. One of the petitioners, Suresh Chander appeared in the witness-box and testified in support of the aforesaid averments regarding *bonafide* need.

9. As noted earlier that though the Rent Controller believed the case of the petitioners holding their requirement to be *bonafide* and ordered the ejectment of the respondents-tenants, but the Appellate Authority has reversed the findings by observing that landlords had failed

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to explain as to why the other premises owned by them are not sufficient to settle their son.

10. I am afraid that the observations as made by Appellate Authority are without any legal basis and those observations, even otherwise, run contrary to the evidence on record, including the admissions made by the own witnesses of the respondents.

11. In this regard, it would be relevant to refer to the testimony of RW1 Manjit Rani (*Surjit*) wife of Anil Gogna i.e., deceased tenant in which she admits that the petitioners have a son and a daughter. She did not deny and only pleaded ignorance that the son of the petitioners is of marriageable age, though admitted that daughter of the petitioners is married in Manimajra and keep on regularly visiting them. She did not deny that H. No. 1737/1 in Kanti Bhalla Gali, Manimajra, owned by the petitioners, was being used for the purpose of manufacturing and storage of confectionary items, though she denied that the demised premises are most suitable for the landlords to fulfill their necessity.

12. RW2 Rajni, daughter of the deceased tenant Anil Gogna is more candid, when she admitted during cross-examination that H. No. 1745/1, Main Bazar, Manimajra, owned by the petitioners, is situated in commercial area and that ground floor of that house is being used for running the shop of confectionary, whereas family of the petitioners is residing at the first & second floor. She further admitted clearly that said first & second floor of H. No. 1745/1, Main Bazar Manimajra are not sufficient for the petitioners and their family members. She also admitted that son of the petitioners is of marriageable age and that their daughter is married in Manimajra, though she was not aware that the said daughter used to regularly visit the petitioners.

13. The aforesaid admissions made by the respondents themselves leave no doubt so as to hold that the requirement as pleaded by the petitioners is *bonafide*, inasmuch as none of the other premises owned by

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the petitioners fulfilled their requirement because, the ground floor of H. No. 1745/1, Main Bazar Manimajra was being used as a shop, whereas the first & second floor thereof, where the petitioners' family was residing, was insufficient for their requirement. The evidence further establishes that another H. No. 1737/1 in Kanti Bhalla Gali, Manimajra was being used for the purpose of manufacturing and storage of confectionary items.

14. In the light of aforesaid evidence, the Appellate Authority was absolutely wrong in reversing the findings of the Rent Controller and in holding that the petitioners had failed to prove their *bonafide* need for the demised premises.

15. The legal position is quite settled that it is the choice of the landlord to choose the place, which is most suitable to fulfill his requirement. The need of the landlord is required to be seen on the date of application and further from his view point. It is also the settled legal position that landlord is best person to judge for requirement and the tenant or even the Courts have no concern to dictate the landlord as to how and in what manner, he should live or adjust himself.

16. Consequent to the above discussion, the impugned order dated 07.12.2019 passed by the learned Appellate Authority is hereby set aside; whereas, the order dated 20.12.2017 of learned Rent Controller, whereby ejection of the tenant was ordered, is hereby restored.

17. As far as the application bearing **CM-3472-CII of 2024** is concerned, it has not been disputed before this Court that the tenants have not paid the rent at the agreed rate of ₹1500/- per month ever since March 2016, apart from electricity consumption charges of ₹73,727/- and water charges of ₹45,714/-.

18. It is held that the petitioners are entitled to the payment of arrears of all the pending rent as well as electricity & water charges, till the premises are vacated by the respondents-tenants.

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19. The respondents-tenants are directed to vacate the demised premises on or before 31.08.2025, subject to the condition that they will clear all the arrears as stated above on or before 31.05.2025 and further continue to pay the monthly rent by 7th of every month. It is further made clear that in case said order is not complied with, and if complied with, then the premises are not vacated up to 31.08.2025, the tenants-respondents shall be liable to pay the user charges/ *mesne profit* at the rate of ₹25,000/- per month w.e.f. 01.09.2025 onwards till the premises are actually vacated by the tenants-respondents. The application stands disposed of accordingly.

20. The main revision petition is accepted in aforesaid terms.

Any other pending application stands disposed of.

(DEEPAK GUPTA)
JUDGE

12.05.2025

Jiten

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