



117

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

CM-4195-CII-2025 in/and
CR-896-2025
Date of decision: 05.03.2025

Sandeep Kumar

...Petitioner

Versus

Savita Devi

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rahul Yadav, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

CM-4195-CII-2025

1. This is an application filed under Order 9 Rule 9 read with Section 151 CPC for restoration of the case and recalling of order dated 13.02.2025.

2. For the reasons stated in the application which is duly supported by an affidavit, the present application is allowed and order dated 13.02.2025 is recalled and the main case is restored to its original number and is taken up on Board today itself for final disposal.

Main case

1. Challenge in the present revision petition is to the judgment dated 06.02.2024 vide which the Rent Controller had allowed the eviction petition filed by the respondent-landlady under Section 13 of the Haryana



Urban (Control of Rent and Eviction) Act, 1973 (hereinafter to be referred as “the 1973 Act”) and had further directed the petitioner to pay use and occupation charges of the disputed premises @ Rs.2000/- per month from the date of order till the premises are actually vacated. Challenge is also to the judgment dated 08.01.2025 vide which the appeal filed by the petitioner was dismissed.

2. Learned counsel for the petitioner has submitted that there is no relationship of landlord and tenant between the petitioner and the respondent, inasmuch as, the petitioner had taken the premises on rent from Kaushalya Devi vide rent note dated 05.07.2002 and after the death of Kaushalya Devi, her son, Sanjay Kumar had become the landlord and he had been paying the rent to the said Kaushalya Devi and Sanjay Kumar. It is submitted that however the eviction petition had been filed by Savita Devi, who is the Aunt of Sanjay Kumar and she had no locus standi to file the eviction petition. It is submitted that the said Savita Devi was sought to be projected as landlady only to enable her to file the petition for eviction against the present petitioner and same is not bona fide and thus, deserves to be dismissed and the judgment of the Rent Controller as well as the Appellate Authority deserve to be set aside.

3. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that impugned judgments passed by the Rent Controller as well as the Appellate Authority are in accordance with law and deserve to be upheld and the revision petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

4. It is not in dispute that the respondent had filed a petition under



Section 13 of the 1973 Act with respect to the shop in question on the plea that she was owner of the shop in question and earlier Kaushalya Devi, widow of Ganpat Ram, was owner of the demised premises and the said Kaushalya Devi had let out the premises to the present petitioner on the initial rent of Rs.1500/- per month vide rent note dated 05.07.2002 and that tenancy was for a period of three months. It was the case of the respondent-landlady that the said Kaushalya Devi had executed a Will in favour of her son Sanjay Kumar and after the death of Kaushalya Devi on 08.03.2014, it was the son of said Kaushalya Devi who had become owner and landlord of the premises and thereafter the said Sanjay Kumar had executed a gift deed bearing No.5687 dated 07.11.2017 in favour of the respondent and thus, by operation of law, the respondent had become owner as well as the landlady of the premises in question. It was stated that after the expiry of the tenancy period, the present petitioner became a statutory tenant and eviction of the petitioner was sought on two grounds. First ground of eviction was bona fide requirement under which it was pleaded that the demised premises was required for personal necessity of the landlady as one of the son of the respondent-landlady namely Vikas was unemployed and he was an ITI Diploma Holder and he wanted to do his own business in the demised shop and thus, the premises were required for personal necessity. Second ground of eviction which was pleaded was the ground of arrears of rent.

5. It is not in dispute that the present petitioner in the reply filed had admitted the fact that he had taken premises in question on rent from Smt. Kaushalya Devi and rent note dated 05.07.2002 was executed between the said parties and it was further admitted that the said Kaushalya Devi had



executed a Will in favour of her son, Sanjay Kumar, who had become the owner and landlord of the demised premises and the present petitioner had paid the rent initially to Kaushalya Devi and thereafter to Sanjay Kumar. Although the eviction petition and reply filed to the same have not been produced on record, but the said averments, as are apparent from a reading of the judgments passed by the Rent Controller as well as the Appellate Authority, have not been disputed before this Court.

6. The Rent Controller, vide judgment dated 06.02.2024, had allowed the eviction petition on the ground of personal necessity and had also directed the petitioner to pay use and occupation charges of the disputed premises at the rate of Rs.2000/- per month from the date of order till the date the premises were actually vacated. A perusal of the said judgment dated 06.02.2024 would show that the Rent Controller came to the conclusion that the relationship of landlord and tenant was fully established between the parties. The aspect of Kaushalya Devi and Sanjay Kumar being the landlord and owner of the premises in question, was stated to be not disputed by the petitioner in his pleadings. Further the gift deed dated 07.11.2017, had been duly proved and exhibited on record as Ex.PW5/A which clearly showed that the said Sanjay Kumar had gifted the property to the present respondent on 07.11.2017 and thus, by operation of law, the said respondent had become owner as well as the landlady of the premises in question. It was further observed that in the present case, the rent was provisionally assessed on 05.07.2019 and thereafter, the present petitioner had tendered the rent assessed without there being any protest as to there being no relationship of landlord and tenant between the parties,



more so when it was a settled principle of law that in case the petitioner had putforth his stand of respondent not being landlord then the Rent Controller was not bound to assess the provisional rent. It was observed that at any rate, since the respondent was transferee of Sanjay Kumar, who was the previous landlord, and since the transferee steps into the shoes of the landlord with all the rights and liabilities of the transferor landlord thus, the respondent had the locus standi to file the eviction petition. Reference was made to the ***judgment dated 18.08.2004*** passed by the Coordinate Bench of this Court in ***Civil Revision No.1802 of 1984*** titled as ***Ragbir Singh Vs. Sansar Chand through LRs***, in which it was stated to have been observed that the person purchasing the shop from Government, which was occupied by the tenant, would, then by operation of law assume the character of the landlord and would be entitled to recover the rent from the tenant and seek his eviction. It was further stated that in the present case, the respondent had also proved notice Ex.PW6/A which was sent to the present petitioner whereby reference was made to the gift deed dated 07.11.2017 and the present petitioner was informed about the said gift deed and the said notice was replied by the present petitioner vide reply which had been exhibited as Ex.PW7/A. It was thus, found that the present petitioner was also aware of the said transfer.

7. With respect to the plea of bona fide requirement, the Rent Controller, after taking into consideration the evidence of PW1 (landlady) as well as PW2-Vikas, had come to the conclusion that from the said evidences, it was duly proved that the requirement of the respondent-landlady for the use of the premises in question for her son namely Vikas,



who was unemployed and was an ITI Diploma holder, was genuine and bona fide. The Rent Controller had relied upon the judgment of the Hon'ble Supreme Court in case of *Joginder Pal Vs. Naval Kishore Behal* reported as *2002(5) SCC 397* on the aspect that the landlord could seek eviction on the ground of personal necessity which would also include necessity of his family members. The Rent Controller further directed the petitioner to pay the use and occupation charges at the rate of Rs.2000/- per month from the date of order till the premises were actually vacated. Learned counsel for the petitioner has fairly submitted that the said charges of Rs.2000/- per month have not been paid by the petitioner.

8. An appeal filed by the petitioner was also dismissed by the Appellate Authority vide judgment dated 08.01.2025 and while dismissing the same, the Appellate Authority also took into consideration the gift deed dated 07.11.2017 as well as evidences of PW1 and PW2 and also the averments made in the petition to come to the conclusion that it was proved that there was relationship of landlord and tenant between the petitioner and respondent and also that the personal necessity projected by the petitioner for her son was genuine and bona fide. The findings of the Rent Controller and the Appellate Authority on both the aspects have not been shown to be perverse or illegal or based upon misreading of the evidence.

9. The respondent-landlady, in support of the averments made in the rent petition, to the effect that her son namely Vikas was unemployed and was having Diploma in Wireman Trade from Industrial Training Institute and wanted to start his own business, required the demised shop for the said purpose, stood fully substantiated from the evidence led by the



respondent-landlady. PW1 respondent-landlady had appeared in the witness-box and testified in support of the case and similarly, PW2-Vikas also appeared and supported the case, more so, on the ground of personal necessity. Nothing has been shown by the learned counsel for the petitioner from the cross-examination of the said two witnesses to even remotely dent their evidence. It is a matter of settled law that it is open to the respondent-landlady to file the case for personal necessity including the necessity of her family members and thus, considering the abovesaid facts and circumstances, the impugned judgments have been rightly passed and deserve to be upheld.

10. The sole ground raised by learned counsel for the petitioner to the effect that there is no relationship of landlord and tenant between the parties, had also been rightly rejected by the Rent Controller and the Appellate Authority. It is not disputed before this Court that the property was initially let out by Kaushalya Devi by virtue of the rent note dated 05.07.2002 and thereafter, the said Kaushalya Devi had executed the Will in favour of her son namely Sanjay Kumar, to whom the rent was being given by the petitioner and thus, the fact that Sanjay Kumar was the subsequent landlord and owner, was also not disputed in the pleadings. It is proved on record that Sanjay Kumar had executed a gift deed dated 07.11.2017 which was duly proved on record as Ex.PW5/A and notice of the execution of the said gift deed was also given by the respondent-landlady, which was duly proved on record as Ex.PW6/A and reply to the same filed by the petitioner was proved on record as Ex.PW7/A. It is thus clear that by operation of law the respondent became owner and landlady of the premises in question.



11. Section 2(c) of the 1973 Act defines the term “landlord” and the said provision is reproduced hereinbelow:-

*“2(c) "landlord" means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit, of any other person, or as a trustee, guardian, receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter provided, **and every person from time to time deriving title under a landlord;**”*

A perusal of the above provision would show that the said Section specifically provides that the “landlord” would also include every person who from time to time derives title from the landlord. The transfer by way of gift by the landlord would come within the meaning of “deriving title under a landlord”. The said gift deed was executed on 07.11.2017 whereas the rent petition was filed in the year 2019 and thus, it cannot be said that the said transfer was made solely for the purpose of seeking eviction. Moreover, learned counsel for the petitioner has not been able to refer any evidence or any relevant factor to remotely show that the transfer was solely for the said purpose. Moreover, it is settled principle of law that when the landlord seeks eviction on the ground of personal necessity, then, the Court is to presume that the requirement of the landlord is bona fide and is not to proceed on the basis that the said requirement is mala fide, more, so when there is nothing on record to even remotely suggest the same. No contrary judgments or provisions of law have been shown by learned counsel for the petitioner in support of his arguments. Moreover, there is



nothing on record to even show that the petitioner has paid Rs.2000/- per month as use and occupation charges from 06.02.2024 till date, although he continues to enjoy possession.

12. Keeping in view the abovesaid facts and circumstances, both the judgments passed by the Rent Controller and the Appellate Authority are in accordance with law and deserve to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

13. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid judgment.

05.03.2025

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No