



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

**CR-6535-2012 (O&M)
Reserved on 15.05.2025
Pronounced on : 13.08.2025**

Arun Kumar Chaurasia

.... Petitioner/Tenant

Versus

Anil Kumar & ors.

....Respondents/landlords

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Hitesh Ghai, Advocate
for the petitioner.

Mr. Rajiv Kataria, Advocate with
Ms. Neelam Choudhary, Advocate
for the respondents.

PANKAJ JAIN, J.

1 With the consent of the learned counsel for the parties, the main case has been heard.

2 In the present revision petition it is the competence of the principal to maintain the eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act (Extension to Chandigarh) Act, 1974 (for short 'the 1974 Act') pleading bonafide need of agent which has been questioned.

3 Respondents filed petition under Section 13 of the Act (as extended to urban area Chandigarh) seeking ejectment of petitioner from



booth No.328-B, Sector 35-B, Chandigarh (hereinafter referred to as the booth in question).

4 As per the eviction petition, the petitioners claimed themselves to be owners of the booth in question. It was further claimed that Mrs. Sudershan Kaur and Mrs. Amarjot Kaur are the General Power of Attorney holders of petitioners No.1 to 3 and are landladies qua booth in question. The eviction petitioners sought eviction of the tenant pleading *bonafide* requirement of their attorney holders namely Mrs. Sudershan Kaur and Mrs. Amarjot Kaur.

5 The eviction petition was contested by the tenant pleading that the eviction petition has not been signed by competent persons. The need of a General Power of Attorney (GPA) holder cannot be considered the “need” of the owner. Ground of bonafide need in terms of Section 13(3) of the 1974 Act is available only to the landlord/owner and not *qua* the need of his/her agent.

6 Rent Controller framed the following issues :-

“1] Whether the demised premises are required by the Petitioner for personal use and occupation? OPP

2] Whether the Respondent is in arrears of rent? OPP

3] Whether the Respondent is liable to be evicted from demised premises? OPP

4] Whether the Petitioners No.1 to 3 are not duly constituted attorney? OPR

5] Whether there exists relationship of landlord and tenant in between the parties? OPP

6] Relief.”



7 The Rent Controller relied upon testimony of Smt. Sudershan Kaur and Smt. Amarjot Kaur to hold that the booth in question was purchased in the name of Kirpal Singh from Anil Kumar and others on the strength of agreement to sell Ex.P1 and Power of attorney. Sale deed in respect of the ownership of booth in question was never executed. The Rent Controller found that Smt. Sudershan Kaur and Smt. Amarjot Kaur being merely the attornies cannot maintain the eviction petition on the ground of their bonafide personal requirement and decided Issues No.1 and 3 in favour of the tenant and against the landlords and dismissed the eviction petition.

8 Respondents preferred appeal. The Appellate Authority found that in order to maintain petition under Section 13(3) (a) of the 1974 Act, landlord is not required to be owner. Appellate Authority further recorded that it is common knowledge that property in Chandigarh is transferred and re-transferred on the basis of power of attornies and therefore, the expression “owner” cannot be construed in strict sense. Appellate Authority further relied upon ratio of law laid down by Delhi High Court in *J.C. Mehra Vs. Smt. Kusum Gupta 2006(1) TCT (Civil) 31* to hold that a transferor of a property, who has executed an agreement to sell and a power of attorney, though continued to be the legal owner of the property as per title deed, yet all his powers vest in the person in whose favour the agreement to sell and power of attorney has been executed. Attorney holder is entitled to maintain the eviction petition. The Appellate Authority, thus found that since landlady Smt. Sudershan Kaur is the de-facto owner of demised premises, she is entitled to maintain the petition on the ground of her personal bonafide



need. The Appellate Authority accordingly reversed the findings recorded by the Rent Controller and allowed the eviction petition.

9 Learned counsel appearing for the tenant submits that the Appellate Authority erred in reversing the findings recorded by the Rent Controller without there being any cogent reason. He submits that the Appellate Authority erred in holding that the eviction petition was maintainable at the behest of Power of Attorney holders, whereas the eviction petition was not filed by the Attorney holders, but by the Principal. Counsel for the tenant further submits that during the pendency of the present eviction petition another eviction petition was filed by Sudershan Singh, husband of the attorney wherein he pleaded his own bonafide need. The same was later on withdrawn. He submits that the repeated attempts made by Sudershan Singh and the attorney holders pleading their respective bonafide need itself proves that in fact none of them requires the property which can constitute valid ground to press for eviction of tenant. Rather it is the wish of the attorney holders to evict the revision-petitioner.

10 *Per contra* counsel for the respondents-landlords submits that the eviction petition was preferred at the instance of original owner to avoid any technical objection. Even though the property was sold by the eviction petitioners in favour of the attorney holders, the same was still recorded as ownership in the records of the Estate Officer, Chandigarh. He submits that the plea qua maintainability of the eviction petition is not available to the tenant as he himself has admitted the attorney holders to be her landlady in the earlier *lis*.



11 I have heard learned counsel for the parties and have gone through the records of the case.

12 In order to appreciate the controversy involved in the present *lis* it will be apt to peruse the memo of parties of the eviction petition which reads as under :-

- “1. *Anil Kumar son of Late Sh.Tilak Raj.*
2. *Mrs. Sarita Paul wife of Sh.Ashwani Kumar.*
3. *Mrs. Neeraj wife of Sh.Pardeep Kumar.*

All residents of House No.2105, Sector 35-C, Chandigarh through their general power of attorney Mrs. Sudershan Kaur wife of Sh.Kirpal Singh and Mrs. Amarjot Kaur wife of Col. Gurmeet Singh, resident of H.No.165, Sector 33-C, Chandigarh.

.....Petitioners.

VERSUS

Arun Kumar Chaurasia son of Sh.Garib Kumar Chaurasia C/o Chaurasia Traders Pan, Cigarettes and Confectioners, Booth No.328-B, Sector 35-B, Chandigarh.

2nd Address :

Arun Kumar Chaurasia son of Late Sh.Garib Kumar Chaurasia, resident of H.No.105, Sector 16, Panchkula.”

13 The bonafide need pleaded by the landlord reads as under :-

“i) That the premises are bonafide required by Mrs. Sudershan Kaur and Mrs. Amarjot Kaur for their personal use and their occupation as they want to start the business of Confectionery etc. in Booth No. 328-B, Sector 35-B, Chandigarh which is a very suitable to start the business as it is located in a very prime location and the demised premises are ideally located and are much more convenient for Mrs. Sudershan Kaur and Mrs. Amarjot Kaur. It is important to mention here that



Amarjot Kaur is the daughter of Mrs. Sudershan Kaur whose husband is going to retire within short period and they will settle in Chandigarh and further the husband of Mrs. Sudershan Kaur is retired officer and who is not working as on today and he will also help them in running the business. They are having sufficient funds at their disposal to start the said business. Moreover, they are not doing any thing and they will involve themselves whole heartedly in running the business of confectionery etc. as these days the business of confectionery is flourishing day by day. Moreover, the demised premises are located very near to their residents. The premises are urgently and bonafidly required for personal use and occupation of Mrs. Sudershan Kaur and Mrs. Amarjat Kaur and they are having sufficient resources to renovate and to start the business. Number of times they have requested the respondent to vacate the premises but the respondent is gaining the time on one pretext or the other.”

14 Thus it is a case wherein owner pleads bonafide need of his attorney to seek ejectment of the tenant. In order to find as to “*Whether landlord can plead bonafide need of the attorney to claim ejectment of the tenant under Section 13 of the 1974 Act*”, following provisions of 1974 Act are relevant :-

"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 authorised, and, every person from time to time deriving title under a landlord;



(ii) Section 13 (3) of the 1974 Act

13 (3) (a) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession –

(i) in the case of a residential [* * *] building if -

(a) he requires it for his own occupation;

(b) he is not occupying another residential building, [* * *] [***] in the urban area concerned; and

(c) he has not vacated such a building without sufficient cause after the commencement of this Act, in the said urban area;

(d) it was let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment:

Provided that where the tenant is workman who has been discharged or dismissed by the landlord from his service or employment in contravention of the provisions of the Industrial Disputes Act, 1947, he shall not be liable to be evicted until the competent authority under that Act confirms the order of discharge or dismissal made against him by the landlord.]

[(i-a) in the case of a residential building, if the landlord is a member of the armed forces of the Union of India and requires it for the occupation of his family and if he produces a certificate of the prescribed authority, referred to in Section 7 of the Indian Soldiers (Litigation) Act, 1925, that he is serving under special conditions within the meaning of Section 3 of the Act.

Explanation. - For the purposes of this sub-paragraph -

(1) the certificate of the prescribed authority shall be conclusive evidence that the landlord is serving under special conditions; and

(2) "family" means such relations of the landlord as ordinarily live with him and are dependent upon him;]



(ii) in the case of rented land, if -

(a) he requires it for his own use;

(b) he is not occupying in the urban area concerned for the purpose of his business any other such rented land, and

(c) he has not vacated such rented land without sufficient cause after the commencement of this Act, in the urban area concerned;

(iii) in the case of any building or rented land, if he requires it to carry out any building work at the instance of the Government or local authority or any Improvement Trust under some improvement or development scheme or if it has become unsafe or unfit for human habitation;

(iv) in the case of [any residential building] if he requires it for use as an office, or consulting room by his son who intends to start practice as a lawyer or as a "registered practitioner" within the meaning of that expression as used in the Punjab Medical Registration Act, 1916, or for the residence of his son who is married, if -

(a) his son as aforesaid is not occupying in the urban area concerned any other building for use as office, consulting room or residence, as the case may be; and

(b) his son as aforesaid has not vacated such a building without sufficient cause after the commencement of this Act, in the urban area concerned:

Provided that where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord [shall not, except under sub-paragraph (i-a), be entitled] to apply under this sub-section before the expiry of such period:

Provided further that where the landlord has obtained possession of [a residential building or rented land'] under the provisions of sub-paragraph (i) or sub-paragraph (ii) he shall not be entitled to apply



again under the said sub-paragraphs for the possession of any other building of the same class or rented land:

Provided further that where a landlord has obtained possession of any building under the provisions of sub-paragraph (iv) he shall not be entitled to apply again under the said sub-paragraph for the possession of any other building for the use of, or as the case may be, for the residence of the same son.

(b)The Controller shall, if he is satisfied that the claim of the landlord is bona fide make an order directing the tenant to put the landlord in possession of the building or rented land on such date as may be specified by the Controller and if the Controller is not so satisfied, he shall make an order rejecting the application:

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time so as not to exceed three months in the aggregate.

(c) [Where an application is made under sub-paragraph (i-a) of paragraph (a), it shall be disposed of, as far as may be, within a period of one month and if the claim of the landlord is accepted, the Controller shall make an order directing the tenant to put the landlord in possession of the building on a date to be specified in the order and such date shall not be later than fifteen days from the date of the order.]”

15 In terms of Section 2 (c) ‘Landlord’ includes ‘owner’ but a landlord need not be owner of the tenant premises. Section 13 of the 1974 Act provides that the eviction petition can be maintained by a landlord pleading that the premises is required by him for his own use. The expression 'for his own use' came up for consideration of Supreme Court of India in ***Joginder Pal v. Naval Kishore Behal, (2002) 5 SCC 397***. Supreme Court concluded as under :-



“33. Our conclusions are crystallised as under :-

(i) The words "for his own use" as occurring in Section 13(3)(a)(ii) of the East Punjab Urban Rent Restriction Act, 1949 must receive a wide, liberal and useful meaning rather than a strict or narrow construction.

(ii) The expression- landlord requires for "his own use", is not confined in its meaning to actual physical user by the landlord personally. The requirement not only of the landlord himself but also of the normal "emanations" of the landlord is included therein. All the cases and circumstances in which actual physical occupation or user by someone else, would amount to occupation or user by the landlord himself, cannot be exhaustively enumerated. It will depend on a variety of factors such as interrelationship and interdependence - economic or otherwise, between the landlord and such person in the background of social, socio-religious and local customs and obligations of the society or region to which they belong.

(iii) The tests to be applied are: (i) whether the requirement pleaded and proved may properly be regarded as the landlord's own requirement; and, (ii) whether on the facts and in the circumstances of a given case, actual occupation and user by a person other than the landlord would be deemed by the landlord as "his own" occupation or user. The answer would, in its turn, depend on (i) the nature and degree of relationship and/or dependence between the landlord pleading the requirement as "his own" and the person who would actually use the premises; (ii) the circumstances in which the claim arises and is put forward; and (iii) the intrinsic tenability of the claim. The court on being satisfied of the reasonability and genuineness of claim, as distinguished from a mere ruse to get rid of the tenant, will uphold the landlord's claim.

(iv) While casting its judicial verdict, the court shall adopt a practical and meaningful approach guided by the realities of life.



(v) In the present case, the requirement of the landlord of the suit premises for user as office of his chartered accountant son is the requirement of landlord "for his own use" within the meaning of Section 13(3)(a)(ii)."

16 Appellate Authority in the impugned judgment has held that it is a common practice in Chandigarh that the properties are sold on power of attorney, and thus they can maintain eviction petition for their bonafide need. Counsel for the owner has argued that since Tenant has admitted the attorney holders to be his landlords in the earlier *lis*, their bonafide need would fall within the ambit of section 13 (3) of the 1974 Act.

17 In the considered opinion of this Court, Appellate Authority totally misconstrued and misread the eviction petition. Petition has not been filed by the attorney holders i.e. the alleged landlord, but the same has been filed and maintained by the owner, not for his need, but for the need of attorney holder. The situation thus is that the person for whose need the eviction is being sought is not the petitioner. The petitioner himself has no need. There is no relationship between owner and his agent to hold that the agent is one of the normal emanations of the owner. Tenant admitting attorney holder as landlord is of no consequence as attorney holder has not filed petition in her individual capacity rather they are acting as agents of owners.

18 Faced to the situation, counsel for the owners submits that procedural considerations should not come in the way of substantial justice. In the considered opinion of this court, even though the rent authorities under the 1974 Act being 'Tribunals', strict principles of law of pleadings



are not applicable, still bare minimum requirement is that the party approaching the authority must plead his case within four corners of law. Owner cannot be allowed to seek eviction pleading bonafide need of a person who is stranger to him. Supreme Court in ***Sri Gangai Vinayagar Temple v. Meenakshi Ammal, (2015) 3 SCC 624*** observed that :-

“27. Procedural norms, technicalities and processual law evolve after years of empirical experience, and to ignore them or give them short shrift inevitably defeats justice.

xxx xxx xxx

Laws of procedure have picturesquely been referred to as handmaidens to justice, but this does not mean that they can be want only ignored because, if so done, a miscarriage of justice inevitably and inexorably ensues. The statutory law and the processual law are two sides of the judicial drachma, each being the obverse of the other.”

19 An application has been filed along with present revision petition under Order XLI Rule 27 Code of Civil Procedure, 1908. Tenant seeks permission to lead additional evidence regarding eviction petition filed by Kirpal Singh, husband of Sudarshan Kaur, one of the attorneys of Anil Kumar. Mr. Kataria, Advocate does not dispute fact of filing of the said eviction petition by Kirpal Singh. He, however, submits that the same was dismissed as withdrawn at later stage. The fact remains that Kirpal Singh filed separate eviction petition against the tenant for the same demised premises, pleading himself to be owner and in bonafide need of the premises which is separate from the need of the attorney holders in the present case.



20 Counsel for the tenant is thus right in contending that repeated efforts being made by Kirpal Singh and his wife to evict tenant from demised premises pleading need of different persons at different times also raises serious doubt on the bonafide need projected.

21 Thus, in view of discussion held hereinabove the findings recorded by Appellate Authority need to be reversed and that recorded by the Rent Controller are maintained.

22 Revision petition is allowed. Eviction petition is ordered to be dismissed.

23 Pending miscellaneous application, if any, also stands disposed off.

13.08.2025
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No