



CR No.1144 of 2020 (O&M)

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

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**CR No.1144 of 2020 (O&M)
Date of Decision: 04.07.2025**

RAJ KUMAR AND OTHERSPetitioners
Vs
PRITAM SINGH AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Jasdev Singh Mehndiratta, Advocate with
Ms. Jyotneer Kaur Sethi, Advocate
for the petitioners.

Mr. Anil Rathee, Advocate
for the respondents.

HARKESH MANUJA, J. (Oral)

[1]. By way of present petition, challenge has been laid to the decision dated 19.11.2019 passed by the learned Appellate Authority, Charkhi Dadri whereby an appeal against judgment dated 25.09.2015 passed by the learned Rent Controller, Charkhi Dadri, District Bhiwani, preferred at the instance of respondent No.1 was allowed thereby resulting into passing of an eviction order against the petitioners qua shop No.13 situated at Rajbir Market, Kath Mandi, Charkhi Dadri.

[2]. Briefly stating, respondent No.1 while claiming himself to be owner as well as landlord filed an eviction petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (hereinafter to be referred as '1973 Act') against the petitioners qua shop No.13 situated at Rajbir Market, Kath Mandi, Charkhi Dadri on the grounds of arrears of rent as well as *bona fide* necessity of his two sons namely Manoj Kumar and Sumit.

[3]. Upon notice, all the petitioners except Rohtas Kumar (proforma respondent No.3 herein) appeared and filed joint written statements while pleading



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that the demised shop was taken on rent from Shri Kishan son of Lahri Ram in the year 1967 and till 2000 it was Shri Kishan, who used to receive the rent. It was further submitted that in the year 2000 Shri Kishan, who happened to be the brother of respondent No.1/landlord served a notice dated 17.04.2000 upon the petitioners stating therein that in a family partition the demised shop had fallen to the share of respondent No.1 and henceforth the rent be paid to him. It was thus pleaded that since 2000, the petitioners were paying the rent qua the demised shop to respondent No.1/landlord. However, it was further pleaded that any such family settlement was a *mala fide* attempt to defeat the rights of the petitioners under the prevalent rent laws as the demised shop had fallen to the share of Shri Kishan in a partition among the brothers i.e. sons of Lahri Ram vide judgment and decree dated 01.12.1965.

[3.1]. Further, it was denied that respondent No.1/landlord was the owner of demised premises and the *bona fide* need of his two sons was also denied. In addition, it was pleaded that since respondent No.1, who was receiving rent was merely a landlord and not the owner of the demised shop, as such he could not have sought eviction of the demised shop on account of *bona fide* need of his two sons and, thus the eviction petition filed at his instance was liable to be dismissed.

[4]. It may be noticed here that the arrears of rent etc. were tendered at the instance of petitioners before the learned Rent Controller and as such the eviction petition on the said ground was not pressed. However, in respect of *bona fide* need of sons of respondent No.1/landlord, the eviction petition was dismissed by the learned Rent Controller vide judgment dated 29.05.2015.

[5]. Aggrieved thereof, respondent No.1/landlord filed first appeal before the learned Appellate Authority, Charkhi Dadri and the same was allowed vide



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decision dated 19.11.2019 thereby holding the need of two sons of respondent No.1/landlord qua the demised shop being genuine and *bona fide* thereby resulting into passing of an eviction order against the petitioners. Hence the present revision petition.

[6]. Learned counsel for the petitioners submitted that by virtue of decree dated 01.12.1965 which was proved on record as Ex.RW-2/A the demised shop had fallen to the share of Shri Kishan son of Lahri Ram and thus, he being its owner, no eviction could have been sought at the instance of respondent No.1 qua *bona fide* need of his two sons, even if he was being paid the rent and was to be treated as landlord in terms of Section 2(c) of the 1973 Act. In support of his submissions, learned counsel relied upon the decision rendered by the Hon'ble Apex Court in case of *Ambica Prasad vs. Mohd. Alam and another* reported as "(2015) 13 Supreme Court Cases 13". Relevant paragraph nos.12 and 13 thereof are extracted hereunder:-

"12. From the definition of "landlord", it is clear that the definition is couched in a very wide language, according to which not only the owner but also any person receiving rent, whether on his own account or on behalf of or for the benefit of any other person or as a trustee, guardian, or receiver for any other person, is also the landlord. However, for the purpose of eviction of a tenant on the ground of personal need or reasonable requirement, one must show that he is the owner of the building.

13. A similar question came for consideration before a three-Judge Bench of this Court in the case of M.M. Quasim vs. Manohar Lal Sharma & Ors., AIR 1981 SC 113. The matter related to the Bihar Building (Lease, Rent and Eviction) Control Act, 1947. In the Bihar Rent Act, the definition of expression 'landlord' is similar as that of Assam Rent Act. Further the ground for eviction of personal necessity is also similar to that of the Assam Act. Considering these provisions, this Court held:-

"14. ...Therefore, while taking advantage of the enabling provision, enacted in Section 11(1)(c), the person claiming possession on the ground



of his reasonable requirement of the leased building must show that he is a landlord in the sense that he is owner of the building and has a right to occupy the same in his own right. A mere rent collector, though may be included in the expression "landlord" in its wide amplitude, cannot be treated as a landlord for the purposes of Section 11(1)(c). This becomes manifestly clear from the explanation appended to the clause. By restricting the meaning of expression "landlord" for the purpose of Section 11(1)(c), the legislature manifested its intention namely that landlord alone can seek eviction on the ground of his personal requirement if he is one who has a right against the whole world to occupy the building himself and exclude any one holding a title lesser than his own. Such landlord who is an owner and who would have a right to occupy the building in his own right, can seek possession for his own use. The latter part of the section envisages a situation where the landlord is holding the building for the benefit of some other person but in that case landlord can seek to evict tenant not for his personal use but for the personal requirement of that person for whose benefit he holds the building. The second clause contemplates a situation of trustees and cesti que trust but when the case is governed by the first part of clause (c) of sub-section (1) of Section 11, the person claiming possession for personal requirement must be such a landlord who wants possession for his own occupation and this would imply that he must be a person who has a right to remain in occupation against the whole world and not someone who has no subsisting interest in the property and is merely a rent collector such as an agent, executor, administrator or a receiver of the property. For the purposes of Section 11(1)(c) the expression 'landlord' could, therefore, mean a person who is the owner of the building and who has a right to remain in occupation and actual possession of the building to the exclusion of everyone else. It is such a person who can seek to evict the tenant on the ground that he requires possession in good faith for his own occupation. A rent collector or an agent is not entitled to occupy the house in his own right. Even if such a person be a lessor and, therefore, a landlord within the expanded inclusive definition of the expression landlord, nonetheless he cannot seek to evict the tenant on the ground that he wants to personally occupy the house. He cannot claim such a right against the real owner and as a necessary corollary he cannot seek to evict the tenant on the ground that he wants possession of the premises for his own occupation. That can be the only reasonable interpretation one can put on the ingredients of clause (c) of Section 11(1) which reads:



“11.(1)(c) where the building is reasonably and in good faith required by the landlord for his own occupation ...” Assuming that the expression "landlord" has to be understood with the same connotation as is spelt out by the definition clause, even a rent collector or a receiver of the property appointed by the court in bankruptcy proceedings would be able to evict the tenant alleging that he wants the building for his own occupation, a right which he could not have claimed against the real owner. Therefore, the explanation to clause (c) which cuts down the wide amplitude of the expression "landlord" would unmistakably show that for the purposes of clause (c) such landlord who in the sense in which the word 'owner' is understood can claim as of right to the exclusion of everyone, to occupy the house, would be entitled to evict the tenant for his own occupation.”

[6.1]. Another argument raised at the instance of petitioners is that the demised premises consists of a shop as well *Chobara* constructed thereupon whereas the eviction has merely been sought qua the shop only and not regarding the *Chobara*, thus respondent No.1/landlord even tried to bifurcate the tenancy which was impermissible in law and as such the eviction petition filed at his instance was liable to be dismissed. In support of this contention, reliance has been placed on the decision passed by this Court in the case of **Shri K.B. and another vs. Vikram Loomba, District Attorney, Gurdaspur** reported as **“(2003) 1 RCR (Rent) 244”**. Relevant paragraph No.13 thereof is extracted hereunder:-

“13. In AIR 1968 SC 438 (supra), it was held by the Hon’ble Supreme Court, as under:-

“The contract of tenancy is a single and indivisible contract, and in the absence of any statutory provision to that effect, it is not open to the Court to divide it into two contracts one of letting for residential purposes and the other for non-residential purposes and to grant relief to the landlord under Section 13(1)(e) of the Act, limited to the portion of the demised property which is being used for residential purposes.”



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[6.2]. Learned counsel further submits that in the facts and circumstances of the instant case wherein neither of the two sons of respondent No.1/landlord appeared in the witness box so as to establish their need, the eviction petition was liable to dismissed. It was also submitted that from the evidence available on record in the shape of Ex.A-4 and Ex.A-5 which were the applications made by the sons of respondent No.1 for the purposes of getting ration card it was stated therein that they were shopkeepers, thus need qua the demised shop was not made out in their favour.

[7]. On the other hand, learned counsel for respondent No.1 submits that the factum of ownership of the demised shop been fallen to the share of respondent No.1 was duly intimated in the year 2000 by his brother Shri Kishan to the petitioners through a notice dated 17.04.2000 and since then they were paying rent to respondent No.1/landlord only. Learned counsel thus submits that at this belated stage the petitioners were debarred from raising any such plea with respect to the genuineness of the oral settlement arrived at between respondent No.1 and his brother Shri Kishan. It was also submitted that the tenancy of the demised shop was never bifurcated as the shop in question i.e. shop No.13 situated at Rajbir Market, Kath Mandi, Charkhi Dadri was given on rent to the petitioners as it existed since the day of its construction which included *Chobara* over its first floor.

[7.1]. Learned counsel also points out that *bona fide* need of his two sons was duly established on record from the deposition of respondent No.1, who appeared as PW-6. It was also submitted that from the evidence available on record it was nowhere established that the two sons of respondent No.1 were running any shop in any specific premises and in such circumstances mere fact that there was a



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mention of they being shopkeepers in their applications for grant of ration card was not be taken against them.

[8]. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioners.

[9]. Perusal of eviction petition as well as the written statement filed before the learned Rent Controller itself makes it clear that the factum of the shop in question been fallen to the share of respondent No.1/landlord was admittedly conveyed to the petitioners in the year 2000 by Shri Kishan son of Lahri Ram, who happened to be the real brother of respondent No.1/landlord and was allocated the demised shop in the decree of partition dated 01.12.1965. Though, it is open to the tenant to show that the partition was *bona fide* and that it had been made with an oblique motive to overcome the rigours of Rent Control Laws which protected the eviction of tenant except on the grounds set out in the relevant statute, however in the present facts, no such case is made out. It is also matter of record that since the receipt of notice dated 17.04.2000, the petitioners have been paying rent to respondent No.1/landlord and that too without questioning the factum of the family settlement as expressed and informed to them by Shri Kishan son of Lahri Ram way back in the year 2000 and thus, at this stage in the present eviction petition after a gap of 06 years, the petitioners were barred from raising any such plea questioning the genuineness of any family settlement arrived at between the brothers i.e. respondent No.1 and Shri Kishan son of Lahri Ram. More so, in the absence of any of the petitioners having appeared in the witness box to depose against the genuineness of the family settlement arrived at between the brothers i.e. respondent No.1 and Shri Kishan, they were having no right to question the same.



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Besides it, even the eviction petition was never filed by respondent No.1 against the petitioners, immediately after the intimation about the family settlement in the year 2000 but was filed in the year 2006 only and thus, cannot be said to be a *mala fide* act. Still further, a perusal of the evidence available on record shows that previously also in eviction petition No.28 of 2001 (Ex.PW6/B) titled as '*Pritam Singh vs. Sat Narain*' which was preferred at the instance of respondent No.1 for arrears of rent against petitioners-tenants, a specific plea of family settlement with the brother and the ownership of demised shop was raised, however, the petitioners-herein chose to tender rent but did not agitate the family settlement being *mala fide* and the said eviction petition was disposed of vide order dated 17.05.2001 (Ex.A6/1). As such in the present eviction petition, the petitioners-tenants cannot be permitted to raise the plea of family settlement between respondent No.1 and his brother Shri Kishan to be *mala fide* more particularly when even the other brother Shri Kishan had never ever raised any plea of fraud being played upon him. In such circumstances, the judgments relied upon by learned counsel for the petitioners could not help their cause in the present facts and circumstances.

[10]. Further, no merit could be found in the submissions made on behalf of the petitioners to the effect that two sons of respondent No.1 having not appeared as witnesses in support of their claim; their *bona fide* need was not established on record. The factum of *bona fide* need qua the demised premises pertaining to the two sons of respondent No.1 was duly proved on record by respondent No.1/landlord himself while appearing as PW-6, who in his affidavit of deposition specifically stated that his two sons, namely, Manoj and Sumit were unemployed and no rebuttal to the same was ever led by the petitioners. Moreover, it is also



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settled law that *bona fide* need qua any demised premises has to be seen from the prospective of landlord. Further, the description given in column No.6 of Ex.A4 and Ex.A5 about the sons of respondent No.1 being shopkeepers cannot alone be read against their cause to record that they were already running their shops particularly when entry in column No.8 of the same form declares that the sons of respondent No.1 are unemployed having no occupation.

[11]. With respect to the submission raised on behalf of the petitioners regarding severability and bifurcation of tenancy qua the demised shop, the same *sans* merit as no such specific plea was ever raised in the written statement whereas in the eviction petition while mentioning about the demised shop it was specifically pleaded that a *Chabutra* was existing over its first floor and the same forms part of the demised shop.

[12]. For the reasons mentioned hereinabove as well as the findings recorded by the learned Appellate Court being based on proper appreciation of pleadings and the evidence on record, there being no illegality or perversity with the impugned decision dated 19.11.2019, the present revision petition is dismissed. Further, *mesne* profits deposited by petitioners be released to the respondents with immediate effect.

[13]. Pending application(s), if any, shall also stand disposed of.

July 04, 2025

Atik

**(HARKESH MANUJA)
JUDGE**

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