

2025:PHHC:040085



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

**CR-5194-2008(O&M)**

**Date of Decision: March 25, 2025**

Chhiddi Lal and another

...Petitioners

Versus

Murari Lal and others

...Respondents

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.M.L.Sarin, Senior Advocate with  
Ms.Hemani Sarin, Advocate  
for the petitioners.

Dr.Anmol Rattan Sidhu, Senior Advocate with  
Ms.Sandhya Gaur and Ms.Mitika Gupta, Advocate  
for the respondents.

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**ARCHANA PURI, J.**

Challenge in the present revision petition is to the order dated 30.08.2008 passed by learned Appellate Authority, whereby, the judgment of dismissal dated 22.05.2007 passed by learned Rent Controller, was reversed and thereupon, eviction of the petitioners-tenants, from the demised premises, was ordered.

The essential facts, to be noticed, are as follows:-

It was pleaded case of the respondents-landlords that the petitioners-tenants are statutory tenants under them, at a monthly rent of Rs.300/-, in

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the shop, as detailed in the site plan, annexed with the petition. They claimed arrears of rent @ Rs.300/- per month, for the period 01.06.1999 to 31.01.2001, to the extent of Rs.6,000/-. Besides the same, also it was pleaded that there is bonafide requirement of the demised shop for the running of business of cloth merchant by Mahesh Kumar, who is a graduate and unemployed.

Reply was filed, wherein, preliminary objections were taken, thereby, disputing the maintainability of the petition and also challenged the locus standi of the landlords to file the eviction petition and that the eviction petition is false, frivolous and vexatious, which has been moved, with the sole motive to pressurize the tenant to enhance the rent.

On merits, it is not disputed that the answering respondents are the statutory tenants of the shop in dispute. Also, it was denied that agreed rate of rent is Rs.300/-. It was also submitted that respondents (tenants) have tendered the demanded rent w.e.f 01.06.1999 to 30.04.2001 for 23 months, amounting to Rs.6900/-, along with interest and costs, assessed by the Court and the same has been received by the landlord. It was denied that the shop in question was required for personal bonafide necessity.

Rejoinder was filed.

After framing of the issues, the evidence was adduced by both the parties.

So far as, plea of arrears of rent is concerned, as arrears of rent at demanded rate and for the demanded period were paid, it no longer subsists, but however, on appraisal of the evidence, learned Rent Controller



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concluded that ground for personal necessity is not made out and consequently, dismissed the ejectment petition.

Being aggrieved, the landlords filed the appeal. Learned Appellate Authority, having adverted to the contentions, had re-appraised the evidence, brought on record. Making detailed reference to the evidence, brought on record, learned Appellate Authority had accepted the appeal and set aside the judgment of dismissal of the ejectment petition and therefore, ordered the tenants to handover the vacant possession of the shop, within a period of 30 days.

Feeling aggrieved by the judgment passed by learned Appellate Authority, the petitioners-tenants have filed the present revision petition.

Learned counsel for the parties heard.

Throughout the arguments, it was contended by learned counsel for the petitioners that approach of learned Appellate Authority, vis-a-vis, determination of material question of fact and law, was erroneous. In fact, the Appellate Authority overlooked the manner of appreciation of 'bonafides' as well as their 'need' for the shop in question. The manner of shop in question allegedly required and the fact of raising *chobara*, during the pendency of the eviction petition and availability of the same with the landlord and also about the availability of adjoining shop, after it was vacated by Bishamber Dayal-tenant, have been completely overlooked. Also, it was submitted that Appellate Authority never took into consideration the clear move about the partition having set up by the other side and the arrival of the compromise dated 24.02.2007, vide which, the



shops were stated to have been given to the share of children of Murari Lal.

In fact, it is submitted that from the evidence on record, it stands established that all the steps were taken to secure eviction, in any manner. The '**malafides**', as such, on the part of the landlord, do stand established.

On the contrary, learned counsel for the respondents-landlords assiduously submitted that learned Appellate Authority has appraised the evidence in correct perspective, vis-a-vis, the 'need' of the shop in question by Mahesh Kumar and the alleged subsequent events, do not mar the 'need', as the landlord cannot be expected to wait and watch the outcome of the ejection petition for his future endeavours.

Such being the submissions, one has to take note that civil revision petition before the High Court is not to be considered, as in the nature of an appeal. While exercising the revisional powers, the High Court is only to examine the fact that whether the authorities under the Act, have acted within the ambit of jurisdiction and whether, they have erred grossly and the order suffers from any infirmity or error of law. In that context, the appreciation of evidence in the civil revision petition to indicate that another view is possible, would not arise. What is necessary to be taken note of is, as to whether the authorities below had considered the matter in its correct perspective, while taking into consideration the grounds of seeking ejection, as pleaded by the landlord.

However, to satisfy itself to the correctness and legality of the impugned decisions or the order, the High Court shall not exercise its power,

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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.

In this backdrop, it is pertinent to mention that initially, ejection was sought on two grounds i.e. firstly, arrears of rent @ Rs.300/- per month, for the period 01.06.1999 to 31.01.2001 and secondly, requirement of bonafide necessity of the shop, for the settlement of Mahesh Kumar i.e. requirement for running the business of cloth merchant. In pursuance of payment of arrears of rent, the first ground, no longer subsisted. However, the contest is on the ground of personal necessity.

As culled out from the evidence, the shop in question and the adjoining shops were initially the ownership of Smt.Gyaso Devi, from whom, by virtue of inheritance, the same came to be the ownership of Murari Lal. Said Murari Lal, allegedly executed relinquishment deed, regarding his property, inclusive of the shop in question and adjoining shop, in favour of his four children i.e. three sons and one daughter, in the year 2000. Thereafter, on 08.03.2001, Murari Lal and his two sons i.e. Mahesh Kumar and Kamal Sharma had filed a suit for injunction against the tenants, seeking to restrain them from making any obstruction or from interfering in the construction work of the landlord, over the first floor of the shop in dispute. The said suit is Ex.R-2.

Soon thereafter, eviction petition was filed. It was during the pendency of the eviction petition that *chobora* was raised. Also, it stands



established that during the pendency of the eviction petition, the adjoining shop, occupied by Bishamber Dayal-tenant was vacated. During the pendency of the petition, suit for partition, *inter-se* the four children of Murari Lal was filed and thereupon, compromise was effected, on the basis whereof, the shop in question, came to the share of Mahesh Kumar.

Such being the seriatim of facts, it is assiduously submitted by learned counsel for the petitioners that subsequent events, with regard to the raising of *chobora*, vacation of the adjoining shop as well as the planned move to file the suit for partition, have not been taken into consideration by learned Appellate Authority. There is definitely misreading of the evidence, on the basis whereof, the order of eviction is palpably a wrong order.

Gone through the evidence, brought on record, with the able assistance of the counsel for both the parties. Before advertng to the same, it is significant to note that ‘**need**’ projected by the landlord, has to be considered, as existing on the date of filing of the eviction petition. Thus, the crucial date for deciding the bonafides of the requirement of the landlord, is the date of his application for eviction. Events occurring subsequent to this date, have no bearing, on the issue, as to whether the eviction was a bonafide requirement. Like this, every subsequent development, relating to the move made by the landlord, for his own settlement or settlement of his children, for whom, the necessity was projected, as such, was not required to be accounted for, in the post-petition period, as there would perhaps be then, no end, so long as unfortunate situation in the litigation slow process system subsists.



One has to realize the duration of time consumed in obtaining the decision on the eviction petition. It cannot be expected that the landlord should not make any further move to settle, so long as the eviction petition remains pending. In this view of the matter, it is the '**date**' of filing of the eviction petition, which is to be considered to adjudicate the '**need**' as projected.

Now advertent to the case in hand, it is significant to note that very categorically, in the petition, the '**need**' was projected for the start of business by Mahesh Kumar s/o Murari Lal. Considering the '**need**', on appraisal of the evidence, there is nothing as such, coming on record, about any other shop available with the landlord, at the time of filing of the ejection petition. No doubt, on 08.03.2001, a suit was filed by Murari Lal and his two sons, to restrain the tenants from raising obstruction in the construction of the *chobara* over the shop in dispute, but however, this *chobora* came to be constructed during the pendency of the eviction petition. Though, it is claimed that it belongs to Mahesh Kumar only, but however, as per the Award in the partition suit filed by the siblings, the shop in question, fell to the share of Mahesh Kumar.

Even though, relinquishment of his properties by Murari Lal was made in the year 2000, as pointed out, but however, Mark 'B', which is the document, relating to the same, gives description of relinquishment in general. Nowhere, there is specific mention made, with regard to the shop in question. Even if it be so, then also, it does not lie in the mouth of the tenant to dispute the settlement reached between the siblings, during the

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pendency of the partition suit. Even though, said suit is also asserted to be collusive one, but no evidence, in this regard, as such, has come on record.

In fact, the testimony of Chhiddi Lal, who stepped into witness box as RW-6, has been very aptly considered by learned Appellate Authority. Chhiddi Lal, while facing cross-examination, admitted a suggestion to be correct that shop in dispute, fell to the share of Mahesh Kumar s/o Murari Lal. He also admitted to be correct that Murari Lal, vide relinquishment deed of all the four shops, have given it to Kamal, Kanihya, Sulekha and Mahesh. Thus, he admitted about all four brothers and sisters, each to have received one shop from their father Murari Lal and the shop in question, fell to the share of Mahesh Kumar.

So far as, the transaction of business in *chobara* is concerned, the petitioner-tenant Chhiddi Lal has admitted in cross-examination that he never saw any sale tax/income tax record of M/s Balaji Textiles to show that Mahesh Kumar is doing business, on the first floor. He also admitted that the adjoining shop to the shop in dispute, is being run by Kamal. This is the shop, which was got vacated by another tenant-Bishamber Dayal. He also admitted to be correct that on the first floor, Kanhiya is doing the business.

Thus, from the testimony of this material witness, the 'need' of the shop is established to be subsisting. Even though, it is averred that the cloth business is transacted in the name of M/s Balaji Textiles, at the behest of Mahesh Kumar, but however, relating to the same, no satisfactory evidence, as such, has come on record. The testimony of Chhiddi Lal has been correctly appraised by learned Appellate Authority. Otherwise also,



may it be so, Mahesh Kumar had occupied the *chobora*. Even then, this in itself does not counter the '**need**' as projected, as the tenant cannot dictate terms to the landlord, as to how he can adjust himself, without getting possession of the tenanted premises.

While adjudicating the question of the bonafide requirement of landlord, it is quite unnecessary to make an endeavour as to how the landlord could have adjusted himself. It cannot be expected that the landlord to remain in still condition, vis-a-vis, his settlement, till the decision of his eviction petition.

The requirement of the landlord for occupation of tenanted premises, of course, has to be bonafide. However, when a landlord asserts that he requires his building for his own occupation, the authorities below, should not proceed on the presumption that requirement is not bonafide. When other conditions of the clause are satisfied and when the landlord shows that prima facie case is made out, then it is open for the authorities below to draw presumption that the requirement of the landlord is bonafide. Once the satisfaction is there of the bonafide need of the landlord, the Court would not, in such a case, thrust its own wisdom, upon the choice of the landlord.

In the case in hand, all those circumstances, with regard to the availability of *chobora* and vacation of adjoining shop by the other tenant as well as the settlement reached between the siblings, were the circumstances, which cropped up, during the pendency of the eviction petition. At the time of filing of the eviction petition, there was no shop available with the

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landlord and thus, the ‘**need**’, as such, projected was bonafide and the settlement reached between the siblings of the landlord subsequently, as such, do not counter the ‘**need**’ so projected.

In the light of the aforesaid observations, learned Appellate Authority has appraised the evidence in correct perspective and has ordered the ejection of the petitioners-tenants, on the count of bonafide requirement of shop by the landlord. Thus, considering the same, the impugned judgment do not warrant interference.

Hence, the revision petition is hereby dismissed.

**March 25, 2025**  
Vgulati

**(ARCHANA PURI)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**Yes/No**