



CR-7053-2023 (O&M)

Sr.No.133

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

CR No.7053 of 2023 (O&M)

Reserved on : 17.07.2025

Pronounced on : 21.07.2025

Gurcharan Gulati

...Petitioner

Versus

Rajesh Khanna and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Harsh Chopra, Advocate and
Mr. Satnam Singh, Advocate
for the Petitioner.

Mr. Manuj Nagrath, Advocate
for the respondents.

PANKAJ JAIN, J.

The tenant is in revision aggrieved of order passed by the Rent Controller allowing application filed by landlords seeking his eviction from a residential tenanted premises and the order passed by the Appellate Authority affirming the same.

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2. Landlord(s) filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (*hereinafter referred to as '1949 Act'*) seeking ejectment of the tenant from residential portion of property as described in the headnote of the plaint (*hereinafter referred to as 'the demised premises'*).

3. Landlords are joint owners of the property having purchased the same vide Sale Deed dated 14.09.2006. At the time the demised premises was purchased by the landlords, the petitioner was already a tenant in the demised premises. Tenant/petitioner started paying rent to the landlords and thus duly attorned them as his landlords. Landlords claimed eviction of the tenant on the ground of *bonafide* need and on account of non-payment of rent.

4. The eviction petition was contested by the tenant claiming that the landlords have not approached the Rent Controller with clean hands. They own numerous properties within the urban area of Ludhiana and have not disclosed the same in the eviction petition. Landlords filed replication denying of being in occupation of any other property.

5. On the basis of pleadings, following issues were framed:-

1. *Whether the respondent has neither paid nor tendered the arrears of rent to the petitioner @ Rs.1700/- per month w.e.f. 01.09.2015 till date ? OPA*
2. *Whether the respondent has also not paid the house tax and water charges since 01.09.2015? OPA*

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3. *Whether the suit property is urgently and bonafidely required by the petitioners for their personal use and occupation? OPA*
4. *Whether the present petition is not maintainable? OPR*
5. *Whether the petitioners have not come to the Court with clean hands and suppressed the materials fact from the court? OPR*
6. *Relief.*

6. Ground of non-payment of rent ceased to exist after tenant paid the rent. The tenant has been ordered to be evicted by authorities on the ground of *bonafide* need. Rent Controller while repelling the objections raised by tenant held that the tenant miserably failed to bring any evidence to show that the landlords are owners in possession of any other property except the demised premises and decided issue No.3 in favour of the landlords.

7. The aforesaid findings stand affirmed in appeal.

8. Counsel for the tenant/petitioner while assailing the findings recorded by the Courts below refers to the provisions contained under Section 13(3) of 1949 Act to submit that landlords were required to plead and prove that they are not occupying any building in the urban area concerned and that they have not vacated any other building in the said urban area without sufficient cause after the commencement of 1949 Act. It is admitted by the landlords in their testimony that they are occupying other buildings within urban area of Ludhiana. Thus, authorities below erred in allowing the eviction petition. In support of his contentions, he has drawn attention of this Court to

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the cross-examination of landlords and submits that both of them, while appearing before the Rent Controller as PW1 and PW3, admitted of being in possession of other properties, situated within the urban area of Ludhiana. They were under statutory obligation to disclose the same in their eviction petition. He submits that the aforesaid facts have been ignored by the authorities below.

8.1. He refers to the cross-examination of PW1-Satyan Bhatia (one of the landlords) and also refers to the admission by him to the extent that the present building/demised premises has five shops and one shop was vacated last year and one shop was vacated two years back and the other was vacated three years back. Satyan Bhatia admitted that all three shops which were vacated, are lying vacant till date.

8.2. It is contended that even though landlords claimed that building is very old and can collapse anytime, yet dilapidation was not pleaded as one of the grounds of eviction. He further submits that Satyan Bhatia has concealed occupation of Flat No.21, GF, Rani Jhansi Road, Ghumar Mandi, Ludhiana.

8.3. The other landlord Rajesh Khanna, who appeared as PW3, admitted of having three shops in the same building and one plot at Kapila Park, Haibowal Kalan, Ludhiana measuring 120 sq. yards.



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8.4. To support his aforesaid contentions, counsel for the petitioner relies upon catena of judgments including *Ajit Singh vs. Jit Ram, 2008(4) RCR (Civil) 390; Tejinder Singh Jaggi vs. Rajiv Chopra, 2009(2) RCR (Civil) 18* and *Banke Ram vs. Shrimati Sarasvati Devi, 1977(1) RCR (Rent) 595*.

9. *Per contra*, counsel for the respondents/landlords submits that the shops that are being referred to in the cross-examination of Satyan Bhatia, are part of the same building, which were vacated from other tenants. The need pleaded is *qua* whole of the property. Property needs to be reconstructed and it is only for the said reason that the remaining shops in the same premises have been kept vacant. He submits that this fact rather proves that need projected by the landlords is *bonafide* and dire.

9.1. He further submits that the concurrent findings of fact have been returned by both the courts. Scope of Section 15(5) of 1949 Act being much narrow as compared to Section 100 CPC, the petitioner/tenant can not ask this Court to reappreciate the evidence and to substitute the opinion formulated by the authorities below based on proper appreciation of evidence.

9.2. To support his contentions, counsel for the respondents relies upon catena of judgments including *Tejinder Singh Jaggi vs. Rajiv Chopra, 2009(2) RCR (Civil) 18; Banke Ram vs. Shrimati Sarasvati Devi, 1977(1) RCR (Rent) 595; Rekha Rani and others vs. Dr. Raj Kumar Jindal and*

another, 2014(3) RCR (Civil) 74; Raj Kumar vs. Budha Mal, 2011(2) RCR (Rent) 60; Shammi Kapur vs. Raghbir Kaur and another, 2017 (2) RCR (Rent) 574; Ram Paul vs. Vijay Kumar and others, 2013(4) RCR (Civil) 649; M/s Sant Footwear Private Ltd. vs. Daya Bindra, 2013(2) Rent LR 547; United Insurance Company Ltd. vs. Dr. M.L. Sharma and another, 2006(7) RCR (Civil) 2; Radhika Parshad vs. Smt. Akki Bai Oswal Trust Regd., 2017(1) RCR (Civil) 708; Nav Sher Singh Nain vs. Jai Kiran Walia and others, 2014(5) RCR (Civil) 135; Krishan Singh Rahi and another vs. Hans Raj Kaushal (since deceased) Through his LRs, 2017(4) RCR (Civil) 593 and M/s Satpal Vijay Kumar vs. Sushil Kumar, 2011(2) RCR (Civil) 82.

10. I have heard counsel for the parties and have carefully gone through records of the case.
11. In order to appreciate the rival contentions, it will be apt to peruse Section 13(3) of 1949 Act, which reads as under:-

“13. Eviction of tenants.
(1)xxxx xxxxx xxxx
(2)xxxx xxxxx xxxx
(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



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Court would be required to give full consideration to the contentions raised by the respective parties and the facts and circumstances of each case before giving its decision in favour of the landlord or the tenant, tout the decisions of the High Courts or the Supreme Court, in this regard, cannot be of any avail to detract from the validity of the proposition that it is necessary for the landlord to make averments regarding the ingredients of Sub-clauses (b) and (c). However, it may be made clear that when it is held that it is essential to plead the ingredients of Sub-clauses (b) and (c) in the eviction application by the landlord, it should not be understood that under no circumstances, in the absence of pleadings, the evidence regarding the ingredients envisaged in Sub-clauses, (b) and (c) can be looked into. This is not peculiar to the eviction applications. Similar considerations come into operation even in the case of suits which are governed by the specific and detailed provisions of the Code of Civil Procedure regarding pleadings.

13. This Court, the other High Courts and the Supreme Court have had the occasion to make pronouncements one way or the other in cases where the evidence was led by parties in the absence of requisite pleadings. Those decisions will serve as guides in eviction proceedings under the Act..

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13. Supreme Court in the case of **Ajit Singh’s case (supra)** observed as under:-



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b. That the property in suit is urgently and bonafidely required by the petitioners for their personal use and occupation. In fact the petitioner no.1 is running his printing business under the name and style of M/s Sakshi Studio for Computer Designing, I-Card and Printing and Screen Printing in the portion of the property in suit and the area occupied by the petitioner no.1 is lesser. Moreover, the petitioner no.1 wants to expand his above said business by installing new and updated machinery. Thus, the portion of the property in suit occupied by the respondent is urgently and bonafidely required by the petitioner No.1 for expanding and updating his business as well as settling his son Parteek Khanna in his business also in the demised premises. Thus the petitioner is unable to expand his business on account of lesser space. Moreover, the petitioner no.2 is also in need of the property in suit for his personal use. In fact the petitioner no.2 is running his business of marketing of Ayurvedic Products under the name and style of M/s International Marketing Corporation in the tenanted premises at Guru Nanak Dev Bhawan on a monthly rent of Rs. 1,17,000/- approximately. The Lease Deeds of the property under the tenancy of the petitioner no.2 are attached herewith. The property in suit is most suitable for the defendant no.2 for running his business of marketing of Ayurvedic Products as the property in suit is abutting the main road and it will help the petitioner to flourish his business. Moreover, the extra expenses of rent amounting Rs. 1,17,000/- incurred by the petitioner no.2 shall be saved. As the huge part of the income of the petitioner no 2 goes towards the rent. Thus

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property in suit is the most suitable place for both the petitioners to run their respective businesses.

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15. The same was responded to by the tenant in his written statement in following terms:-

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(b) That para no. (b) of the petition is wrong and is denied. It is incorrect that the property in is urgently and bonafidely required by the petitioners for their personal use and occupation. It the wrong that the area in possession of petitioner is lesser or that the petitioner no.1 wants to expend his business by installing new and updated machinery as alleged. It is also wrong that the portion of the property occupied by the respondent is urgently and bonafidely required by the petitioner for expanding and updating his business as well as settling his son Parteek Khanna in his business also in the demised premises as alleged. It is wrong that the petitioner is unable to expand his business on account of lesser space. It is also wrong that the petitioner no.2 is also in need of the property in dispute for his personal use as alleged. It is wrong that the petitioner is running his business of marketing of Ayurvedic Products in the tenanted premises at Guru Nanak Dev Bhavan on a monthly rent of Rs.1,17,000/- as alleged. It is wrong that the property in dispute is most suitable for running his business of marketing of Ayurvedic Products or it will help the petitioner to flourish his business as alleged. It is wrong that the extra expenses of rent amounting to Rs.1,17,000/-

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personal use and occupation. It is correctly stated that the area in possession of petitioner is lesser and the it is also correct that the petitioner no.1 wants to expand his business by installing new and updated machinery as alleged. It is the correct that the portion of property occupied by the respondent is urgently and bonafidely required by the petitioner for expending and updating his business as well as settling his son Parteek Khanna in his business also in the demised premises as alleged. It is also correct that the petitioner no.2 is also in need of the property in dispute for his personal use alleged. It is correctly stated that the petitioner is running his business of marketing of Ayurvedic Products in the tenanted premises at Guru at Guru Nanak Dev Bhawan on a monthly rent of Rs. 1,17,000/- as alleged. It is also correct that the property in dispute is most suitable for running his business of marketing of Ayurvedic Products or it will help the petitioner to flourish his business as alleged. It is also correct that the extra expenses of rent amounting to Rs. 1,17,000/- incurred by the petitioner no.2 shall be saved as alleged. It is correct that the huge part of the income of the petitioner goes towards the rent as alleged. It is correct that the property in suit is the most suitable place for both the petitioners to run their respective business as alleged. Rest of the allegations leveled by the respondent in this paragraph of the written statement are totally wrong and denied. It is wrong and vehemently denied that the petition is quite false. In fact the respondents are trying to grab the suit property illegally and wrongfully. Thus, the respondent is liable to be evicted from the suit property as the same is bonafidely required by the petitioners. Rest of the



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averments of this paragraph of the written statement are baseless and unjustifiable. The petitioners are not in occupation of any other property as falsely alleged in this paragraph of the written statement.

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17. In the considered opinion of this Court, there can't be any quarrel with the proposition that landlords are required to come with clean hands regarding occupation of building(s) other than demised premises in the same urban area or the fact of having vacated any building in concerned urban area without sufficient cause after the commencement of 1949 Act. At the same time, it is settled law that the expression used by the legislature need not be reproduced in pleadings. After tenant claimed that landlord is occupying other buildings, in replication the landlords pleaded that they are not in occupation of any other building except the property in dispute. The said pleading satisfies the parameters as laid down in ***Banke Ram's case (supra)***. The onus, thus was on tenant to prove that landlord has not approached the Court with clean hands.

18. During the course of arguments, a specific query was raised to the counsel representing the tenant '*as to which are the properties which are in occupation of landlords*'. He submits that there are three shops which are part of the same building, which are lying vacant. He further submits that Flat No.21, GF, Rani Jhansi Road, Ghumar Mandi, Ludhiana is also in possession

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of Satyan Bhatia and he has admitted the same. So far as the instance of the shops lying vacant in the same property as stressed by the counsel for the tenant are concerned, he does not dispute that the said shops are lying vacant after the same were vacated from different tenants. This fact when seen in the light of pleadings raised by landlords that they need the entire property, it advances the case as projected by the landlords instead of being fatal to the case as suggested by counsel representing the tenant. So far as the issue regarding the landlord Satyan Bhatia being in occupation of another flat is concerned, he in his cross-examination clarified that in the said flat he is living with his parents. Landlord proved that one of them is running business from tenanted premises and requires the demised premises. One of them needs it for residential purpose.

19. Needless to add that the scope of revision under Section 15(5) of 1949 Act is quite narrow. The same was interpreted by the Constitution Bench of Supreme Court in the case of *Hindustan Petroleum Corporation Ltd. vs. Dilbahar Singh*, 2014(4) RCR (Civil) 162 observing as under:-

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45. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional

jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or reassess 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. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.

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20. This court thus doesn't find that the findings recorded by authorities below need to be interfered in exercise of revisional jurisdiction.

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Finding no merits in the present revision petition, the same is ordered to be *dismissed*.

21. Pending application(s), if any, shall also stand disposed off.

(PANKAJ JAIN)
JUDGE

July 21, 2025
ashish

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