



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

Reserved on: 10.03.2025
Pronounced on : 27.05.2025
CR-5905-2016 (O&M)

1)

Satyanarain Bhagwan Trust, Rewari

...Petitioner

V/s

Hira Singh Jai Bhagwan through Jai Bhagwan

...Respondent

2)

CR-5911-2016 (O&M)

Satyanarain Bhagwan Trust, Rewari

...Petitioner

V/s

Rajiv Sharma and another

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by: Mr. M.K. Mittal, Advocate, for the petitioner(s).

Mr. Sanjay Mittal, Advocate, for the respondents.

VIKRAM AGGARWAL, J

By way of the instant judgment, I propose to decide the afore-titled revision petitions. Though, both revision petitions arise out of separate judgments, the properties are a part of the same Dharamshala and issues involved are identical. The facts shall primarily be derived from CR-5905-2016 though the relevant details as regards the other case (CR-5911-2016) shall also be referred.

2. Satyanarain Bhagwan Trust, Rewari is running a Dharamshala, which is situated at railway road, Rewari. It is a huge building having rooms for those who wish to stay in the Dharamshala and 20-25 shops on the main road. The present dispute relates to two shops i.e. Shop No.1739-C in CR-5905-2016 and Shop No.1739-A in CR-5911-2016 (hereinafter referred to as the "demised premises"). The respondents-tenants are stated to be in occupation of the demised premises since long on a rent of Rs.100/- per



month. The petitioner-landlord i.e. the Trust instituted a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as the "Rent Act") for eviction of the respondents-tenants from the demised premises on the following grounds:-

- i) non-payment of rent;
- ii) the demised premises having become unsafe and unfit for human habitation;
- iii) personal bona fide need, as the case set up was the accommodation in the Dharamshala was falling short on account of a large inflow of passengers/travellers who wish to stay in the Dharamshala. The petitioner-landlord, therefore wanted to demolish the shops and convert them into accommodation for travellers.

3. The eviction petitions were opposed. The relationship of landlord and tenant as also the rate of rent was admitted. It was denied that the respondents-tenants were in arrears of rent. It was also denied that the demised premises had become unsafe and unfit for human habitation. It was further denied that the demised premises were required for personal *bona fide* use. The stand taken was that there was no such requirement and in any case, the other shops had not been got vacated and that the demised premises were being got vacated only with a view to increase the rent.

4. In the eviction petition out of which CR-5905-2016 arises, the following issues were framed:-

- “1. Whether the petitioner is entitled to get the possession of the suit premises due to non payment of rent? OPP.***
- 2. Whether the disputed shop is unfit and unsafe for human habitation if so its effect?OPP***
- 3. Whether the petitioner is entitled to get possession of the suit property on the grounds of eviction as mentioned in the petition?OPP***
- 4. Whether this present petition is not maintainable?OPR***
- 5. Whether the petitioner has no cause of action to file this present petition?OPR***
- 6. Relief.”***



In the other eviction petition out of which CR-5911-2016 arises, the following issues were framed:-

- “1. *Whether the petitioner is entitled to get the possession of the suit premises due to non payment of rent? OPP.*
2. *Whether the disputed shop is unfit and unsafe for human habitation, if so its effect?OPP*
3. *Whether the petitioner is entitled to get possession of the suit property on the grounds of eviction as mentioned in the petition?OPP*
4. *Whether this present petition is not maintainable?OPR*
5. *Whether the petitioner has no cause of action to file this present petition?OPR*
6. *Relief.”*

5. Parties led their respective evidence. Essentially, the petitioner-landlord examined the local commissioner who had been appointed by the Court, a building expert, an authorized representative of the trust and a couple of other witnesses. The respondents-tenants also examined an expert along with few other witnesses. In the eviction petition against Hira Singh (CR-5905-2016), the Rent Controller, Rewari dismissed the eviction petition and the appeal was also dismissed. In the eviction petition against Rajiv Sharma and another (CR-5911-2016), the Rent Controller, Rewari allowed the eviction petition but the said order was reversed in appeal. The Appellate Authority, therefore, took the same view in both cases and non-suited the petitioner-landlord.

6. Learned counsel for the parties were heard.

7. It was strenuously urged by learned counsel representing the petitioner-landlord that the Courts had erred in dismissing the eviction petitions. It was argued that the ground of the demised premises having become unsafe and unfit for human habitation and personal *bona fide* need were duly proved but the authorities took an erroneous view. Learned counsel submitted that there has been a complete misreading of evidence led on the



record of the case. Learned counsel referred to the oral and documentary evidence and submitted that the eviction petitions deserve to be allowed.

8. *Per contra*, learned counsel representing the respondents submitted that there is no illegality in the decision rendered by the Courts. Learned counsel submitted that it had been proved on record that the demised premises were in a stable condition and had not become unsafe and unfit for human habitation. It was submitted that as regards the ground of personal *bona fide* need, no cogent evidence was produced to prove that the footfall in the Dharamshala had increased. It was argued that out of 20-25 shops, only 4 shops were sought to be got vacated, which itself makes it abundant clear that there was no actual need and merely by getting 4 shops vacated, the Trust would not be in a position to increase its accommodation. It was submitted that it, therefore, stood proved that it was not the actual *bona fide* need but was only the mere wish or desire of the petitioner-landlord to get the demised premises vacated.

9. I have given my thoughtful consideration to the issue in hand. I have also perused the pleadings and the oral and documentary evidence led on the record of the case.

10. This Court is conscious of the fact that in revisional jurisdiction, unless the Court comes to the conclusion that the findings recorded by the Rent Controller and the Appellate Authority are perverse, generally, no interference is called for. However, having examined the matter in detail, this Court is of the considered opinion that there has been complete misreading and mis-appreciation of the evidence, as also the law on the subject.

11. It is settled law that a landlord is the best judge of his requirements and a tenant is no one to dictate terms and conditions to the landlord. In the case of ***Ragavendra Kumar Vs. Firm Prem Machinery and***



Co., 2001 (1) RCR (Rent) 135 (SC), the Supreme Court of India enunciated the said principle. Further, in the case of ***Janak Dulari Khosla Vs. Jaswinder Singh, 2003 (2) Rent Law Reported 139 (P&H)***, a co-ordinate Bench of this Court, while relying upon the judgment of the Supreme Court of India in the case of ***Ragavendra Kumar*** (supra), held that once a landlord pleads personal need and enters the witness box in support of his/her case, the landlord cannot be disbelieved unless the need pleaded by the landlord could be unfounded, unreasonable or fanciful or unless there was material to show that the need was not genuine. In the case of ***Rishi Kumar Govil Vs. Maqsoodan and Others, 2007 (1) RCR (Rent) 405***, the Supreme Court of India reiterated the said principle;

“19. In Ragavendra Kumar v. Firm Prem Machinery and Co., 2000(1) RCR(Rent) 135 (SC) it was held that it is the choice of the landlord to choose the place for the business which is most suitable for him. He has complete freedom in the matter. In Gaya Prasad v. Pradeep Shrivastava, 2001(1) RCR(Rent) 221 (SC) it was held that the need of the landlord is to be seen on the date of application for release. In Prativa Devi (Smt.) v. T.V. Krishnan, 1987(2) RCR(Rent) 580 : 1996(5) SCC 353 it was held that the landlord is the best Judge of his requirement and Courts have no concern to dictate the landlord as to how and in what manner he should live. The bonafide personal need is a question of fact and should not be normally interfered with. The High Court noted that when the Prescribed Authority passed the order son of the respondent-landlady was 20 years old and the shop was sought to be released for the purpose of settling him in business. More than 20 years have elapsed and the son has become more than 40 years of age and she has not been able to establish him as she has still to get the possession of the shop and the litigation of the dispute is still subsisting. The licence for repairing fire arms can only be obtained when there is a vacant shop available and in the absence of any vacant shop, licence cannot be obtained by him. Therefore, the High Court came to the conclusion concurring with that of the Prescribed Authority and Appellate Authority that the need of the landlady is bonafide and genuine. Considering the factual findings recorded by the Prescribed Authority, Appellate Authority and analysed by the High Court, there is no scope for any inference in this appeal which is accordingly dismissed. However, considering the period for which the premises in



question are in the occupation of the appellant time is granted till 31st December, 2007 to vacate the premises subject to filing of an undertaking before the Prescribed Authority within a period of 2 weeks to deliver the vacant possession on or before the stipulated date. There will be no order as to costs.”

In the case of *Atma S.Berar Vs. Mukhtiar Singh*, 2003 (1) Rent Law Reporter 186, the Supreme Court of India held as under:-

“9. In Ram Dass v. Ishwar Chander & Ors, (1988)3 RCR SCC 131, M.N. Venkatachaliah, J. (as His Lordship then was) speaking for the three-Judges Bench, said "Statutes enacted to afford protection to tenants from eviction on the basis of contractual rights of the parties make the resumption of possession by the landlord subject to the satisfaction of certain statutory conditions. One of them is the bonafide requirement of the landlord, variously described in the statutes as "bonafide requirement", "reasonable requirement", "bonafide and reasonable requirement" or, as in the case of the present statute, merely referred to as "landlord requires for his own use". But the essential idea basic to all such cases is that the need of the landlord should be genuine and honest, conceived in good faith; and that, further, the court must also consider it reasonable to gratify that need. Landlord's desire for possession, however honest it might otherwise be, has inevitably a subjective element in it and that, that desire, to become a "requirement" in law must have the objective element of a "need". It must also be such that the court considers it reasonable and, therefore, eligible to be gratified. In doing so, the court must take all relevant circumstances into consideration so that the protection afforded by law to the tenant is not rendered merely illusory or whittled down.

10. In Gulabbai v. Nalin Narsi Vohra & Ors, 1991(2) RCR 453 (SC), reiterating the view taken in Bega Begum v. Abdul Ahad Khan, (1979)1 SCC 273, it was held that the words "reasonable requirement" undoubtedly postulate that there must be an element of need as opposed to a mere desire or wish. The distinction between desire and need should doubtless be kept in mind but not so as to make even the genuine need as nothing but a desire.”

Similarly, in the case of *Natha alias Jeewan Saini V/s Ashok Kumar and another*, 2016 (4) RCR (Civil) 648 (P&H), it was held by a coordinate Bench of this Court as under:-



“14. The proposition of law as settled in Parikshat Suri and others v. Ashok Kohli and another, 2009(2) RCR 87 is being followed to enumerate the bona fide requirement of landlord where his bona fide cannot be questioned by the tenant. The landlord would be the best judge of his requirement. The lack of bonafides of the landlord viz-a-viz his requirement cannot be questioned by the tenant on hypothetical basis and the landlord would have complete freedom to decide nature of business which would carry on in the demised premises. 15. Similarly, in view of Anil Kumar v. Harpal Singh, 2008(3) RCR (Civil) 319, the landlord if establishes existence of personal need then he is entitled to raise presumption in law that such need is bona fide enough to oust the tenant. Thereafter, the onus heavily shifts upon the tenant to show and establish that the need of the landlord is not bona fide.”

In the case of *Kailash Kumar and others Vs. Smt.Surinder Kaur*, 2009 (2) RCR (Rent) 381, it was held by a co-ordinate Bench of this Court that the need of the family was to be determined by the landlord and not by the tenant. In the case of *Arjun Dass Vs. Smt.Birinder Kaur and another* 2013 (3) RCR (Civil) 156, it was held by a co-ordinate Bench of this Court that when a tenant was enjoying the fruits of his property for a long time and had gained substantially by working there, he should not dis-entitle his landlord from enjoying the fruits of the property, especially when it is proved that the need of the landlord is bona fide.

12. It is also well settled that the need should be a genuine and a *bona fide* need and should not be a mere wish or desire. As regards the issue of the building having become unsafe and unfit for human habitation, there can never ever be a strait jacket formula to arrive at a conclusion. One has to fall back upon the reports of experts and the other evidence led on the record of the case to arrive at the conclusion as to whether a building can be said to have become unsafe and unfit for human habitation.



13. Reverting to the facts of the case, the issue of non-payment of rent had become redundant since the same had been tendered. Even otherwise, the said issue has not been raked up before this Court.

14. Coming to the issue of the demised premises having become unsafe and unfit for human habitation, the first and foremost fact which is required to be taken note of is that, as depicted by the site plan (Ex.AW1/1), the demised premises are an integral part of the Dharamshala. The shops are on the main road and on their back is the Dharamshala. The same experts were examined in both cases. For the petitioner-landlord, Sh. Nand Ram Nagpal appeared as AW4 and submitted his report Ex.AW4/1. He also produced a number of photographs, which showed the dilapidated condition of the demised premises. Sh. Nand Ram Nagpal stepped into the witness box as AW4. He is a Civil Engineer and was registered with HUDA for supervision, estimation and design and was having over 26 years of experience. He was also a government approved valuer. His report stated as under:-

“The building in question is more than 50 years old. Due to age, the walls of the property are in very bad condition, as these are out of plumb and can fall at any time. There are through and through cracks as well as holes in the roof. First floor as well as 2nd Floor, due to their very bad condition, are lying closed. Some of the photographs were taken in my presence, which are also enclosed herewith and detailed separately.

As places, the walls are catching REH, due to which bricks are disintegrating day by day. (Details of the reason on the basis of QUATATIONS FROM BOKS have been given later in the report). Due to Reh, the plaster is losing its binding force at places, which is clear from the Photographs attached herewith. Due to REH, bricks are also disintegrating. Roof of some of the portion, at 2nd floor, has already fallen down, which confirms that the building is in dilapidated condition and may fall at any time. The lime mortar used in the property has lost its strength and can be removed from the walls, without help of any instrument/ equipment like screwdriver etc. at places. Plaster from walls has already fallen down at places, which confirms, that the mortar used in



the construction, has lost its strength as well as adhesive power and is not in a position to stick any more. (Details of the reason on the basis of QUATATIONS FROM BOKS have been given later in the report).

Wooden members used in door frame are eaten by moth/ Termites, which was clear from bore holes and hollow sound, when struck with a small hammer. Moreover, the lintels provided above doors have sagged, which is clear from photographs attached herewith.

The floor is made of cement concrete/ bricks. The floor is in very bad condition. Moreover repairing of the cement concrete floor is not successful and is beyond repairs. (Details of the reason on the basis of QUATATIONS FROM BOOKS have been given later in the report). The floor level of the shops is lower than road level by more than 9". To stop entry of water, small brick walls have been made, at entrance of the shops. In spite of walls, water from road passes to the shops, which is clear from water marks on the wall at floor level."

The observations and conclusion were as under:-

"OBSERVATIONS The floors, roof, walls have decayed at places. The walls of the shop are made of bricks in lime mortar. The shops are in very bad condition. The walls are eaten by REH also, due to which the bricks are disintegrating and loosing space Wooden members are eaten by white aunts/ moth. Mortar can be taken out from walls at places without use of any sharp instrument. At places, finger could be inserted in the gaps of the joints, which confirms that the mortar has lost its adhesive power and is not in a position to stick any more. The building is of 2nd class and more than 50 years old and is in dangerous condition. The walls have developed big cracks and are beyond repairs, which is clear from photographs attached herewith. Small trees/moss are present on the roof of Ist floor, which confirms that water seeps from the roof. Already part of roof has fallen down.

CONCLUSION On the basis of my observations & detailed report, I am of the definite view that the building in question as a whole has outlived its life and is structurally unsafe. It is unfit for human habitation/commercial use. The building as a whole should be dismantled at once in the public interest to avoid any material damages to the property/ passersby, as the shop is situated on a crowded railway road."

15. He was cross-examined, wherein he withstood his ground. Apart from the aforesaid witness, AW2 (Sh. Sanjay Malik, Advocate), who had been appointed a local commissioner, submitted his report, wherein he stated that



the floor of the demised premises was about 1½ feet below the railway-road. He noticed that the actual condition of the demised premises had in a way been concealed by placing almirah/wooden boards etc. He, therefore, went to the first and second floor and found the same to be dilapidated. He also found through and through cracks as well as holes in the roof. A number of photographs were also produced, which showed the dilapidated condition of the demised premises.

16. On the other hand, the expert by the respondents-tenants was Sh. Satpal, who appeared as RW-3. Though, in his examination-in-chief, he deposed that he was an Engineering Graduate from IIT, Delhi, in the cross-examination, he admitted that he was a Mechanical Engineer and that he did not have any diploma or certificate of Architecture. He, as expected, in his report submitted that the demised premises were in a stable condition. It is well known that experts tend to give reports in favour of their own clients. However, it is then for the Court to weigh the same and to arrive at a conclusion as to which report is genuine and states the true facts. In the considered opinion of this Court, the Courts did not examine this issue from the correct perspective. No doubt, the mere age of a building can never depict its condition. In any case, the building at that time was more than 50 years old. Bricks were in lime mortar, which itself shows the old technique having been used. There were through and through cracks in the roof and gaping holes. It was the categorical opinion of the expert that the building could fall at any time. This Court is, therefore, inclined to accept the report given by Sh. Nand Ram Nagpal (AW4). It is, therefore, held that the demised premises had become unsafe and unfit for human habitation.

17. Coming to the ground of personal *bona fide* necessity, it was duly deposed by the witnesses that the footfall had increased. The Courts took a



view that no evidence as regards the same had been produced. It has to be borne in mind that it is a Dharamshala situated on the railway-road. No one can deny the fact that over the years, the footfall must have increased. The desire to convert few shops into rooms cannot be said to be a mere wish. It was never the case of the petitioner-landlord that they would get all shops vacated at once, which even otherwise would not be possible. They had to start somewhere. They could not be expected to wait for all tenants to vacate or for the building to collapse. If one examines the matter in its totality, it can safely be concluded that the demised premises were required by the petitioner-landlord for its personal *bona fide* need.

18. In the wake of the above, this Court arrives at the conclusion that the impugned orders are not sustainable.

19. That being so, the revision petitions are allowed. The orders passed by the Appellate Authority are set aside and the eviction petitions are allowed. The respondents-tenants are granted two months time to hand over the vacant possession of the demised premises to the petitioner-landlord.

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

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 27.05.2025

vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No