



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-607-2016 (O&M)
Reserved on: 04.03.2025
Date of decision: 28.04.2025

KUSAM LATA KALIA

..Petitioner

Versus

M/S KULBHUSHAN RAI GUPTA & SONS & ANR.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajinder Kumar Singla, Advocate
for the petitioner.

Mr. Gurcharan Dass, Advocate
for respondents.

ANIL KSHETARPAL, J.

1. The landlady assails the correctness of Appellate Authority's order, which in turn has reversed the eviction order passed by the Rent Controller.
2. The landlady filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short '1949 Act') seeking ejection of the respondents from the demised shop located in Chandla Market, Khanna, District Ludhiana, on the bonafide necessity to settle her son Sh. Naresh Kalia, who is stated to be unemployed. The respondents while contesting the ejection petition claim that the landlady is owner of various other commercial properties and Sh. Naresh Kalia is Nambardar, hence, busy with his work.
3. The Rent Controller after appreciation of evidence came to the conclusion that the requirement of the landlady is genuine and bonafide, hence, ordered eviction. Before the Appellate Authority, an application for



permission to lead additional evidence was filed in order to produce the Rent Controller's order dated 05.08.2015 passed in the case of Kusum Lata Kalia Vs. Lohit son of Rajnish Kumar son of Nathu Ram. The Appellate Authority reversed the order of the Rent Controller on the ground that the landlady is guilty of concealment of fact of owning another adjoining shop and the tenant has taken a specific stand that the landlady and her son are owner in possession of so many other commercial properties.

4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook along with requisitioned record.

5. On 24.02.2025, the following order was passed:-

“Learned counsel representing the parties have been heard at some length.

Learned counsel representing the petitioner while drawing the attention of the Court to page 40 of the paper book submits that the Appellate Authority has erred in recording finding that the petitioner is in possession of adjoining shop, which is lying vacant. He submits that in Chandla Market, Khanna, the petitioner is the owner of two shops. One is in possession of Sh. Nathu Ram Batta, which is a smaller shop and a petition for eviction of Sh. Nathu Ram Batta is pending, whereas, the second shop is in possession of the respondent. He submits that there is one shop in Krishna Nagar which is a residential area. The aforesaid shop has been given by the petitioner to her daughter. He further submits that Krishana Nagar is a residential area, whereas, the shop in dispute is in commercial area. He submits that the petitioner is not the owner of any other commercial property in District Khanna.

Learned counsel representing the respondent prays for some time to disclose the concurrent status.

List, in the urgent list, on 03.03.2025.

No further request for an adjournment, oral or written, shall be entertained.”

6. Thereafter, learned counsel for the parties were given liberty to file their written submissions, which have been filed.

7. It is evident from the perusal of judgment passed against Lohit



son of Sh. Rajnish son of Sh. Nathu Ram that his eviction has been ordered on the ground that the shop is unsafe and unfit for human habitation apart from other grounds. Such shop cannot be said to be available to the landlady for settling her son.

8. Moreover, it is evident that when the landlady filed petition, she stated that she has no such or similar suitable commercial property either of her own or of Sh. Naresh Kumar. In para 7 of the petition under Section 13 of the '1949 Act', it was disclosed that there is another shop, which is adjoining to the shop in dispute, which is on rent with Sh. Nathu Ram Batta against whom ejection petition has been filed as Sh. Naresh Kumar wants to convert two shops into one to fulfil his bonafide requirement, hence, there is no concealment of fact.

9. There is another shop located in Krishna Nagar, which is a residential area. The aforesaid shop is stated to be owned by the landlady's daughter.

10. Thus, the Appellate Authority has erred in reversing the order passed by the Rent Controller.

11. Keeping in view the aforesaid discussion, the order passed by the Appellate Authority is set aside while restoring that of the Rent Controller.

12. Hence, the revision petition is allowed.

13. All the pending miscellaneous applications, if any, are also disposed of.

28th April, 2025

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No