

(2025) 12 P&H CK 0014

Punjab And Haryana HC

Case No: Civil Revision No. 413 Of 2022(O&M)

Kulwant Singh Bhatia Through
Lrs

APPELLANT

Vs

Sourabh Khanna And Others

RESPONDENT

Date of Decision: Dec. 16, 2025

Acts Referred:

- East Punjab Urban Rent Restriction Act, 1949-Section 13, 15(5)

Hon'ble Judges: Archana Puri, J

Bench: Single Bench

Advocate: Divanshu Jain, Minkal Rawal, Anand Chhibbar, Vaibhav Saini, Lalit Thakur,
Utkarsh Khatana

Final Decision: Dismissed

Judgement

Archana Puri, J

The petitioner-tenant has invoked the revisional jurisdiction of this Court under Section 15(5) of the East Punjab Urban Rent Restriction Act, assailing the order dated 27.09.2019 passed by learned Rent Controller, thereby, ordering the eviction of the petitioner-tenant as well as order dated 10.11.2021, passed by learned Appellate Authority, whereby, the eviction order, so passed, was affirmed.

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

That, the respondent-landlord Sourabh Khanna had filed the ejectment petition under Section 13 of the East Punjab Urban Rent Restriction Act, as applicable to U.T. Chandigarh, for eviction of the petitioner-tenant from the tenated premises i.e. SCO No.2455-56, ground floor, Sector-22, Chandigarh. The respondent-landlord asserted himself to be co-owner of the demised premises and he sought eviction, on the grounds of non payment of arrears of rent, subletting, material impairment and personal necessity.

In pursuance of the notice issued, the tenant (petitioner herein) made appearance and contested the petition. Issues were framed and evidence was adduced by both the parties.

Vide order dated 27.09.2019, eviction was ordered, on the ground of personal necessity. So far as, ground of non-payment of arrears of rent is concerned, the same no longer existed, as the outstanding amount was paid and the same was accepted. Even, the ground of subletting was given up vide statement dated 24.09.2019. So far as, plea with regard to material alterations and additions made in the tenant premises is concerned, the same was decided against the landlord. Thus, only on the ground of personal necessity, the eviction was ordered.

Being aggrieved, the rival appeals were filed by the landlord as well as tenant and both the said appeals were dismissed vide judgment dated 10.11.2021 passed by learned Appellate Authority.

Dis-satisfied, the petitioner-tenant has filed the revision petition in hand.

Upon notice, the respondents made appearance through counsel.

Counsel for the parties heard.

At the very outset, learned counsel for the petitioners-tenant assiduously contended that the Courts below have failed to appraise the evidence in correct perspective. The concurrent findings, qua personal necessity have been reached, while giving amiss to the necessary ingredients to establish the same, having not come forth. Furthermore, counsel submits that the authorities below, did not take into consideration the fact about the availability of other shop, adjoining to the demised premises, which was vacated by the then tenant i.e. Firefox Cycles Pvt. Ltd. and after a period of eight months, since the vacation of the same, it was further let out to Baba Chicken.

Also, it is submitted that it is, on this account, amply evident that eviction petition has been filed, with the sole purpose to seek vacant possession of the same, to further let it out at higher rate and thus, the need so projected is not genuine. To emphasise upon the bonafide requirement to be genuine, honest and not a mere desire or wish, learned counsel has relied upon plethora of case law, which need not to be reproduced herein. Suffice to consider that it is settled proposition of law, as submitted by learned counsel, which need not be dilated further.

On the other hand, learned counsel for the respondent-landlord, assiduously resisted the claim of the tenant. In fact, it is submitted that during pendency of the appeal, mesne profits were assessed by the Appellate Authority, to the extent of Rs.1.5 lakh, per month and the tenant was directed to make the payment of the same. However, the same was never paid till date. Also, he submits that CR-2330-2021 was filed by the tenant to assail the order of fixation of mesne profits

@ Rs.1.5 lakh per month. In the said civil revision petition, though, on account of consensus, vis-a-vis, early disposal of the appeals, an order was passed by the revisional Court with a direction to the lower Appellate Authority to finally decide the appeals, filed by the parties, on the date already fixed before it, but however, there is no observation made with regard to the setting aside of the order of the mesne profits. It is further submitted that it was incumbent upon the tenant to make the payment of the same, but however, he had not done so, despite the order passed by the Honble Supreme Court and therefore, counsel for the petitioner-tenant, should not be allowed to make submissions on merits.

In response to the submissions aforesaid, learned counsel for the petitioner-tenant submits that since, the order passed in CR-2330-2021 was consensual order, the order of mesne profits was not to be given effect to. Moreover, the demised premises has since been vacated and possession handed over to the landlord.

Copy of the order dated 26.10.2021, relating to the disposal of CR-2230-2021 is Annexure P-24. No doubt, perusal of the same reveals that the consensual order was passed, with regard to the early disposal of the appeal, upon which, a specific direction was given to the lower Appellate Authority to finally decide the appeals filed by the parties, on the date fixed before it, but however, nowhere, in the order, there is mention made of setting aside of order of mesne profits. No such prayer, at the time of passing of the order was made by counsel for the tenant. Such being the position, the order of mesne profits, still persists. It is significant to note that during the pendency of the revision petition, in hand also, the interim stay, earlier granted was vacated by this Court vide order dated 11.09.2025.

The petitioner-tenant filed SLP No.27579-2025 before the Honble Supreme Court, which was disposed of vide order dated 06.10.2025 and the relevant portion of the requisite order, is herein reproduced:-

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4. It appears that since the petitioners were deliberately not proceeding with the hearing of the Revision Application before the High Court, the High Court thought fit to vacate the interim stay which was earlier granted.

5. In such circumstances, referred to above, the petitioners are here before this Court.

6. We heard Mr. Manoj Swarup, the learned senior counsel appearing for the petitioners (Tenants) and Mr. Anand Chhibbar, the learned senior counsel appearing for the respondent (Landlords).

7. We are informed that the next date fixed by the High Court for hearing of the civil revision application is 11.12.2025.

8. The first thing that we want the petitioners to do is to deposit the amount of Rs.1,09,50,000/- (Rupees One Crore Nine Lakh Fifty Thousand). This amount shall be deposited by the petitioners herein with the Registry of the High Court within a period of six weeks from today.

9. Subject to such deposit, we restore the original interim order which came to be vacated by the High Court.

10. In the event of failure on the part of the petitioners to deposit, the amount referred to above, the relief granted by us would stand automatically vacated.

11. In any view of the matter, we request the High Court to take up the civil revision application and hear it finally on 11.12.2025.

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Despite the direction given by the Honble Supreme Court to the tenant to deposit an amount of Rs.1,09,50,000/-, with the Registry of High Court, within a period of six weeks, from the date of order, the necessary compliance was not made. Much emphasis has been laid upon the Honble Supreme Court, only having ordered about the interim stay to be not extended, in the eventuality of failure, on the part of the petitioner-tenant, to deposit the amount referred therein.

May it be so, but the fact remains that the amount stood outstanding, which also received seal of approval of the Honble Supreme Court, while ordering deposit of the same. Admittedly, the same has not been deposited. Suffice to consider that mere preferring of an appeal or revision, does not operate, as stay on the decree or order appealed nor on the proceedings in the Court below. Anyhow, the deposit having not been so made, the petitioner-tenant, is not to make submissions on merits. Even, if the tenant has vacated the demised premises, but he was called upon to make the payment of the outstanding amount by the Honble Supreme Court and subsequently, having vacated the premises, as submitted by counsel for the tenant, do not absolve him from the liability, which was set up by the order of mense profits and which also got the seal of approval from the Honble Supreme Court.

But anyhow, yet again, considering the merits also, the submissions made above also calls for no interference, in the affirmatory orders of eviction.

So far as, the claim of the respondent-landlord is concerned, he asserted himself to be co-owner. From the evidence, adduced, suffice to mention that Sourabh Khanna is established to be co-owner, on account of inheritance of Naresh Khanna. Suffice to consider the letter, vis-a-vis, transfer of the lease rights, to the extent of 1/6th share, in respect of SCO No.2455-56, Sector-22, Chandigarh, which was written to the widow of the deceased Naresh Khanna and his two sons, including Sourabh Khanna. That being so, it is evident that the respondent-landlord is co-owner to the extent of 1/18th share and that being so, he can very well seek eviction, for his own

need.

It is categorical claim of Sourabh Khanna that after completing graduation, he has done Web-Designing, Diploma, Hartron and he is helping in the business of Ankur Khanna, his elder brother, who is having his work in the name and style of Pratham Distributors. The brother of the landlord, is in occupation of cabin on the first floor, rear portion of the building in question. However, the landlord, further asserted that he is helping hand in the business of his brother and has no independent source of income. Though, he is qualified and eligible to start his business, yet he has no commercial place to set-up his business. The need so projected, in the petition, also gains strength from the cross-examination of Kulwant Singh Bhatia-tenant, when he stepped into witness box as RW-2 and faced cross-examination. Suffice to consider the threadbare appraisal of the cross-examination of Kulwant Singh Bhatia made by the authorities below, which amply establish the claim of personal need as set up by Sourabh Khanna.

Once, Sourabh Khanna is established to be co-owner, the need as projected, which is well-founded, ought to be accepted by the Courts. It is well settled that one of the co-owner can file a suit for eviction of the tenant in the property, generally owned by co-owners. This principle is based on the doctrine of agency. One co-owner, filing a suit for eviction against the tenant, does so on his own behalf, in his own right and as an agent of other co-owners. The consent of co-owners, is assumed as taken, unless, it is shown that the co-owners were not agreeable, to eject the tenant and the suit was filed, in spite of their disagreement. The suit filed by the co-owner, is thus maintainable in law. It is not necessary for the co-owner to show before initiating the eviction proceedings before Rent Controller that he had taken the option or consent of other co-owners. However, in the event, a co-owner objects thereof, the same may be a relevant factor. In the instant case, there is nothing, as such, coming forth in evidence, about any resistance to the claim, as set up by Sourabh Khanna, in capacity of being co-owner and the same to be not acceptable to the co-owners. Such being the position, the tenant, as such, cannot dispute about the petition having filed by Sourabh Khanna, being co-owner.

Throughout the arguments, much emphasis has been laid upon the multiple times, the various other tenanted premises of the building, of which the demised premises is also a part, being got vacated and re-let again, on account of which, it has been emphasised that the same to be done, solely, on account of malafide intention to seek better rent. Also, learned counsel for the petitioner-tenant has submitted that subsequent events ought to be taken into consideration as Sourabh Khanna, having come in possession of the shop, adjoining to the tenanted premises, during the pendency of the case, before the authorities below and said shop, more particularly, being of the same size and having access from the front side of the building, like the premises in question. Even, the same was got vacated from Firefox Bicycles Pvt. Ltd. and then, it was let out to Baba Chicken.

So far as, the documents qua the vacation of the other tenanted premises, of the same building, of which the demised premises is also a part and also about the lease deeds, relating to the tenants inducted, who had then vacated and further re-let process is concerned, which have been proved by the tenant, in the evidence, before the Rent Controller, it has been correctly appraised by the Courts below that the same do not depict about the possession of Sourabh Khanna, at any time of letting out of the other premises on rent or possession, being handed over to him, on ending of the tenancy. Thus, no sustenance, as such, can be drawn from the premises, being let out by other co-owners.

Very true that on 08.07.2019, a statement was made by Sourabh Khanna before the Rent Controller about having taken over the physical possession of half front portion of SCO No.2455-56, Sector-22C, Chandigarh, ground floor, on 03.01.2019, under his signatures and the document is Ex.DX. However, this otherwise, also not matters much, as the need projected by the landlord, was set up in the year 2012, when he filed the eviction petition. The decision of the landlord, to seek eviction of which part of the building or the premises let out out, has to be seen. There is nothing coming on record, about the landlord to have be having other vacant shop, at the time, when he filed the petition. It was subsequently, he took over the possession of front half side of the other premises, as evident from the statement made on 08.07.2019.

May it be so, but the tenant, as such, cannot dictate the terms to the landlord, as to which shop, he should occupy, to fulfill his personal need of the shop. Though, the said shop came to be available during the pendency and was rented out, but the same is of no help to the tenant, to dilute the plea of personal necessity and assert about the same to have been falsely projected. The choice of the premises, the nature or the extent thereof, rests solely with the landlord. A Court or for that matter, even a tenant, cannot impose its own perception of the nature, extent or choice of the landlord.

The law is well-settled that need of the landlord has to be seen from the angle of the landlord and not from the viewpoint of tenant. Even, if it be so that other adjoining shop, came to be in possession of the landlord, during the pendency of the case, which is of the same size and also having same kind of access, but the tenant, as such, cannot emphasize for the occupation of the said shop by the landlord. May it be of same size, then also it is for the landlord to determine the suitability of the accommodation for his requirement. No terms, as such, can be dictated by the tenant. The only requirement is that the need should be sincere and honest and not a mere pretense. The landlord is best judge to make assessment of his need.

Viewed, from the other angle also, it is pertinent to mention that need projected by the landlord has to be considered, as existing on the date of filing of the 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 thereto, have no bearing, on the issue, as to whether the eviction was a bonafide requirement. The other premises having been vacated by the tenants and its possession being taken over by the landlord during pendency, as such, will not change the position in favour of the tenant.

Considering the clear and cogent evidence threadbare, learned authorities below have thus, rightly ordered the eviction of the petitioner-tenant. The orders under challenge do not suffer from any infirmity, impropriety or illegality and thus, on account of the same and also considering the equity, which tilted in favour of the respondent-landlord-, vis-a-vis, non payment of the amount, as ordered by the Honble Supreme Court, the same brooks no interference.

Hence, the revision petition sans merit and the same is hereby dismissed.

The pending civil misc. applications, if any, shall stand disposed of.