

**(2011) 03 P&H CK 0335**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** CR No. 8128 of 2010 (O and M)

Manoj Kumar

APPELLANT

Vs

Smt. Anuradha Bhardwaj and  
Others

RESPONDENT

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**Date of Decision:** March 25, 2011

**Acts Referred:**

- Haryana Urban (Control of Rent and Eviction) Act, 1973 - Section 13

**Hon'ble Judges:** Rakesh Kumar Jain, J

**Bench:** Single Bench

**Final Decision:** Dismissed

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**Judgement**

Rakesh Kumar Jain, J.

The tenant is in revision against the order of eviction passed by the learned Appellate Authority while reversing the order of the learned Rent Controller.

2. The landlords filed eviction petition u/s 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 [for short "the Act"] for seeking eviction of the tenant from House No. 4492/1-4, Bajaja Mohalla, Ambala Sadar, Ambala Cantt. consisting of one room let out @ Rs. 400/- per month besides municipal tax @ 5% per month, inter alia, on the ground of personal necessity. The learned Rent Controller dismissed the eviction petition on the ground that though the landlords had required the demised premises for their own use and occupation but it was found to be their greed and not the need. However, learned Appellate Authority reversed the order of the learned Rent Controller by observing as under: -

20. The contention of the Respondents that the Petitioner failed to prove his Degree in Plastic Technology, is also not tenable because the Petitioner proved the copy of Diploma Certificate Ex.PW1/6 which proved that Shri Jai Vardhan, grandson of Petitioner Shri Ram Dass (since deceased), has passed the Diploma Course of Instructions in Plastic Technology. The contention of the Respondents that the

Petitioners are having other shops in the main mohalla in possession of other tenants, is also not tenable because it has been held by the Hon"ble Punjab and Haryana High Court in case of Yash Pal Juneja v. Satish Kumar Sandooja 2009 (1) RCR 420, that even if an alternative accommodation is available, it is for the landlord to decide as to how and in what manner he should fulfill his requirements. The tenant can not dictate terms to his landlord as to how the latter can adjust him without asking for eviction of the tenanted premises.

21. Perusal of the evidence on the record shows that there was sufficient evidence to prove that Shri Jai Vardhan, grandson of the Petitioner Shri Ram Dass (since deceased), has passed Diploma Course in Plastic Technology and he requires the premises in dispute for starting his business of plastic technology. The learned Rent Controller wrongly held that the Petitioners failed to prove the Degree in Plastic Technology because the Diploma Certificate in plastic technology in the name of Sh. Jaiwardhan Bhardwaj was on the file. Therefore, it is concluded that the finding of the Rent Controller on Issue No. 3 is illegal and is liable to be set aside.

3. Learned Counsel for the Petitioner has submitted that the demised premises is a part of residential building, therefore, it cannot be got vacated for non-residential purposes, but this assertion has been dealt with by the learned Appellate Authority by observing that the tenant himself admitted in para No. 5 of his written statement that it is not a residential building and rather it is a godown. It was observed that since the tenant is using the demised premises for non-residential purposes, therefore, he cannot say that the demised premises is a residential building and cannot be got vacated.

4. I fully agree with the observation of the learned Appellant Authority and do not find any reason to disturb the order of eviction. Hence, the present revision petition is found to be without any merit and is, thus, dismissed.

No costs.