

(2007) 08 P&H CK 0072

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Ram Dass Hira Lal and Another

APPELLANT

Vs

Sunil Kumar Sekhri and Others

RESPONDENT

Date of Decision: Aug. 21, 2007**Citation:** (2007) 4 PLR 593 : (2007) 4 RCR(Civil) 313 : (2007) 2 RCR(Rent) 409**Hon'ble Judges:** Vinod K. Sharma, J**Bench:** Single Bench**Final Decision:** Dismissed

Judgement

Vinod K. Sharma, J.

This revision petition has been filed by the tenant - petitioners against the order dated 02.05.2003 passed by the learned Rent Controller, Chandigarh, ordering eviction of the petitioners, as affirmed by the learned Appellate Authority.

2. The landlord-respondents sought eviction of the petitioners from the demised premises on the averment that vide lease deed dated 15.10.1990 the petitioners were inducted as tenant in the basement and half of Ground Floor portion of S.C.O. No. 3027-28, Sector 22-D, Chandigarh on payment of Rs. 1,500/- as rent. The lease was for a period of 5 years. The eviction of the petitioner-tenants was on the ground of bonafide necessity raising the plea that Sunil Kumar Sekhri, respondent No. 1 herein had 1/4th share in the demised premises and he was doing his business of chemical and paints in Industrial plot No. 26/5, Industrial Area, Phase-II, Chandigarh as a tenant under Uttar Kumar Garg as per lease dated 30.9.1993 on payment of Rs. 3,630/- per month for an area of 12" x 50". The landlord respondent No. 1 wished to run his business from the ground floor and basement portion of the demised premises as he wanted to use the ground floor as a shop while the basement portion as a godown. It was claimed that the accommodation from where the business was being run by Sunil Kumar Sekhri, respondent No. 1 was inadequate and insufficient to meet his demand. It was further claimed that the landlord of Sunil Kumar Sekhri was pressing hard to vacate the premises occupied by him. It

was also claimed that as the landlord-respondent No. 1 did not own or possess any commercial premises within the urban area of U.T., Chandigarh nor had vacated any such building in the said urban area without any sufficient cause, the eviction ~ of the tenant-petitioner was sought.

3. The eviction petition was contested, wherein the relationship of landlord and tenant between the parties was admitted. The execution of lease deed in the month of October, 1990 was also admitted. However, it was denied that respondent No. 1 - Sunil Kumar Sekhri required the basement or the first floor portion of the demised premises for his own use and occupation. It was claimed that one Des Raj was a tenant in another half portion of the ground floor of the demised premises on payment of Rs. 2,500/- per months as rent. The said portion was vacated by him in January or February, 1996 and the same was rented out by the landlord to one Giani Ram on enhanced rent. Sunil Kumar Sekhri was stated to be engaged in the business of manufacturing shirts and other garments from an Industrial Shed at Panchkula. The first floor of S.C.O. No. 3027-28, Sector 22, Chandigarh, was stated to be already on rent for the last 7/8 years. It was further claimed that initially its rent was Rs. 5,500/- per month which was subsequently enhanced to Rs. 6,000/- per month and at the time of filing of the written statement it was Rs. 7,000/- and M/s. Mahajan Steel Furniture was tenant therein. On these pleadings, it was urged that the landlord had no bonafide necessity qua the demised premises and the petition was an attempt to put pressure on the tenant-petitioner to fulfil his demand for enhancement of rent. It was also alleged that the landlord was running his business from plot No. 26/5, Industrial Area, Chandigarh and, therefore, was not in need of the demised Premises.

4. On the pleadings of the parties, following issues were framed:

1. Whether there exists relationship of landlord and tenant between the parties?
OPP

2. Whether the petitioner requires the demised premises for his personal use and occupation? OPP

3. Relief.

Both issues No. 1 and 2 were decided in favour of the landlord and against the tenant. In appeal findings of the learned Rent Controller were challenged on the grounds that after entering into the agreement in 1990 for a period of five years, the landlord had taken on rent a premises in the Industrial Area, which could have not been done, in case the demised premises was required for his own use; in the year 1995 the portion of the ground floor of the same building had fallen vacant which was let out by the landlord to one Giani Ram, which belied his claim of bonafide requirement: the evidence brought on record qua the other tenancy showed that an attempt was made for enhancement of rent; the business was being run by the landlord in the Industrial Area and the premises in dispute was not suited

for his business. It was also pleaded that in absence of requirement of entire shop-cum-office or evidence in proof thereof, plea of bonafide requirement can not be accepted.

5. The learned lower Appellate Court rejected the contention of the learned Counsel for the tenant by coming to the conclusion that before the judgment of the Hon"ble Supreme Court in the case of [Harbilas Rai Bansal Vs. State of Punjab and another](#), the commercial building was not open to eviction on the ground of personal necessity and in that situation, entering into fresh lease with existing tenant could not be a ground to defeat the claim of bona fide requirement which was duly established.

6. As regards induction of Giani Ram as tenant, a finding was recorded by the learned lower Appellate Court that he was earlier tenant before 1995 in the demised premises and merely on the basis of a new lease deed which was executed after the expiry of lease period, it could not be said to be a new tenancy. So far as plea regarding increase of rent was concerned, it was observed by the learned lower Appellate Court that there was litigation between the landlord and one Jugal Kishore; a tenant on first floor, and the eviction of the tenant was sought on the ground of sub-letting and in that litigation, an agreement was reached between the parties under which the rent was enhanced on fresh terms, which could also not be a ground to defeat the claim of the landlord.

7. The learned trial Court as well as the Appellate Authority have recorded a concurrent finding that need of the landlord was bonafide and, therefore, ordered eviction of the petitioner-tenant.

8. Mr. M.L. Sarin, learned senior Counsel, appearing on behalf of the petitioner, contended that the present revision petition deserves to be allowed in view of the subsequent events. It was claimed that Pran Nath Sekhri, one of the landlords and father of Sunil Kumar Sekhri died on 11.10.2002. The remaining landlords i.e. Sunil Kumar Sekhri and his mother Asha Rani moved an application for being brought on record as legal representatives of late Shri Pran Nath Sekhti. It was further claimed that Shri Pran Nath owned an industrial shed No. 41, Phase-II, Industrial Area, Panchkula and on his death Sunil Kumar Sekhri entered into possession of this Industrial Shed in Panchkula and was running his business from there. Thus it was pleaded that the requirement of the landlord has ceased to exist. The additional facts have been brought on record by way of Civil Misc. No. 19633-CII of 2004.

9. The said application was contested by the respondent-landlord. Firstly, on the ground that the said premises is to be used by the mother of Sunil Kumar Sekhri for running the business of manufacturing sanitary fittings, which was being carried out by her husband. Secondly, this premises does not fall in urban area of Chandigarh. Therefore, the subsequent events as pleaded are of no consequence and cannot defeat the claim of respondent-landlord.

10. Learned senior Counsel for the petitioner thereafter placed reliance on the judgment of the Hon"ble Supreme Court in the case of [ADIL Jamshed Frenchman \(D\) by LRs. Vs. Sardar Dastur Schools Trust and Others](#), to contend that the application moved by the petitioner for leading additional evidence to prove on record the subsequent events deserves to be accepted and the subsequent events be taken into consideration for adjudication of the matter. However, this contention cannot be accepted, as the evidence sought to be produced cannot be said to be relevant to decide the controversy between the parties. Admittedly, the property inherited by the landlord is not within the urban area of Chandigarh and further more a different business is being carried out from the said premises. Consequently, there is no merit in the contention that any additional evidence is required to be taken on record.

11. Learned senior Counsel for the petitioner by placing reliance on the judgments of the Hon"ble Supreme Court in the cases of [Amarjit Singh Vs. Smt. Khatoon Quamarain](#), Gulabhai v. Nalin Narsi Vohra 1991 H.R.R. 427 and [Magboolunnisa Vs. Mohd. Saleha Quaraishi](#), contended that the subsequent events can be taken into consideration. There can be no dispute to the proposition of law raised that the subsequent events which are likely to affect the decision can be taken into consideration but merely because some property is available with the landlord within a different urban area cannot be a ground to non-suit the landlord as is sought to be contended by the learned Counsel.

12. Learned senior Counsel for the petitioner further contended that the very fact that the landlord has been increasing rent by filing petitions against the other tenants shows that the filing of present petition is an attempt to pressurize the tenant-petitioner for enhancement of rent. This plea stood rejected by both the Courts below. Further more, it may be noted that the landlord is running his business from the tenanted premises by paying higher rent and the area in his occupation is less than the one occupied by the petitioner-tenant.

13. Learned Counsel for the respondents, therefore rightly placed reliance on the judgment of this Court in the case of Sham Lal v. Raj Kumar (2007) 145 P.L.R. 741 to contend that once it is proved on record that the landlord was paying higher rent for tenanted premises occupied by him as tenant, it was open to him to seek vacation of the demised premises from his tenant for his own use and his need is to be held as bonafide. Mere fact that before the decision in Harbilas Rai Bansal's case (supra) was pronounced, the lease period was extended on higher rent in some other litigation, cannot be a ground to reject the claim of the landlord to seek eviction of the tenant-petitioner.

14. Learned senior Counsel for the petitioner thereafter contended that for seeking eviction on the ground of bonafide personal use and occupation, the need of the landlord should be genuine, honest and conceived in good faith. In order to succeed, the requirement must have an element of need which can be decided only

by taking all relevant circumstances into consideration so as to defeat the protection afforded to a tenant. The contention of the learned senior Counsel, therefore, was that in view of the evidence brought on record, it could not be held that the need of the landlord was bonafide and there was no element of need. This contention is also not sustainable in view of the fact that the landlord is, in fact, running his business from the tenanted premises in Industrial Area, Chandigarh, and it has been proved on record that his landlord was pressing hard for his eviction. Therefore, it can safely be concluded that the need of the landlord was quite genuine and bonafide and not a mere desire.

15. Learned senior Counsel for the petitioner contended that the landlord has pleaded insufficiency of accommodation, but no finding in this regard has been recorded and by placing reliance on the judgment of this Court in the case of Karnail Singh v. Vidya Devp (1980) 82 P.L.R. 613, he contended that once it was proved on record that Shri Sunil Kumar Sekhri was in occupation of another premises as tenant, in absence of any other proof that the area under his occupation was insufficient, no eviction can be ordered. This contention of the learned senior Counsel for the petitioner is also without any merit. The landlord has specifically pleaded and proved that the area under his ten any is less as well as the rent being paid for the said premises is higher. He also led evidence to prove that the accommodation occupied by him as tenant was insufficient.

16. Lastly, it was contended by the learned senior Counsel for the petitioner that there was no element of need and, therefore, the learned Courts below were not right in ordering eviction of the petitioner, this/plea cannot be accepted as it has already been noticed that need of landlord was genuine and bona fide.

17. Mr. Suvir Sehgal, learned Counsel appearing on behalf of the landlord-respondents, contended that mere periodical requests made by the landlord for enhancement of rent cannot be ground to hold that there was no bonafide place of eviction. In Support of this contention, learned Counsel placed reliance on the judgment of the Hon"ble Kerala High Court in the case of Sukesini Amma v. Nagarajalu 2004 (4) R.C.R. 319.

18. Learned Counsel for the respondents also by placing reliance on the judgment of the Hon"ble Supreme Court in the case of Vaneet Jain v. Jagjit Singh (2000) 126 P.L.R.263 (S.C.), contended that the power u/s 1595) is not an appellate power and is not open to the High Court to reassess or re-appraise the evidence to arrive at findings contrary to those of lower Courts. The evidence can be reappraised for the limited purpose of making certain that the conclusions of lower Courts are not wholly without reason or contrary to law. The contention of the learned Counsel for the respondents was that both the courts below on available material have recorded concurrent findings of facts which are not open to challenge in the civil revision.

19. Learned Counsel for the respondents further placed reliance on the judgment of the Hon"ble Supreme Court in the case of [Joginder Pal Vs. Naval Kishore Behal](#), to contend that the Courts should adopt a reasonable and balanced approach while interpreting rent control legislations so that an equal treatment has been meted out to the landlord and the tenant. The contention of the learned Counsel for the respondents, therefore, was that the suggestion given by the petitioner that the landlord should continue to run his business from the tenanted premises can be said, by no stretch of imagination, to be an equitable interpretation of the provision of the Rent Act which give a right to the landlord to seek eviction on the ground of personal need and occupation. There is force in the contention raised by the learned Counsel for the respondents. In view of concurrent findings of fact recorded by the learned Courts below holding that the need of the landlord is bonafide, the subsequent events as sought to be pleaded by the petitioner are held to be not relevant.

20. For the reasons stated above, the revision petition is held to be devoid of any merit.

Dismissed.