
**Ashok Kumar and Another Vs Gurudwara Cinema Road, Batala and
Another
 Sarabjit Singh Vs State of Punjab**

Civil Revision No. 5888 of 2008

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Oct. 30, 2008

Acts Referred:

East Punjab Urban Rent Restriction Act, 1949 " Section 13

Citation: (2009) 2 RCR(Rent) 105

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Advocate: V.K. Bali, for the Appellant;

Final Decision: Dismissed

Judgement

Kanwaljit Singh Ahluwalia, J.

Two Courts below have returned a concurrent finding that demised premises on rent with respondent is

required for Gurudwara Cinema Road, Batala, for constructing the Jaura Ghar (place where the disciples leave their shoes).

2. It is an admitted case that Gurudwara Cinema Road, Batala, has two shops and one of the shop has been let out to the petitioner-tenant.

3. Petition u/s 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as "the Act") for eviction of tenant on ground of

personal necessity, creation of sub-tenancy and non-payment of rent was instituted by Gurudwara Cinema Road, Batala, through its Cashier

Amarjit Singh Nagi. In the eviction petition, it was pleaded that the shop in question was rented out at a monthly rent of Rs.180/- vide rent note

dated 21.05.1979. It was further stated that the tenant had not paid the rent since 01.12.1996. it was further pleaded that the shop in question was

required for personal use and occupation of the Gurudwara for constructing Jaura Ghar. Another ground was taken that the petitioner-tenant had

created a sub-tenancy in favour of Kashmir Singh.

4. Written statement was filed on behalf of respondents No.1 and 2. Rent Note was denied. Grounds of non-payment of rent, personal necessity

and subletting were disputed.

After conclusion of the pleadings, learned Rent Controller, Batala, had drawn the following issues:-

1. Whether relationship of landlord and tenant exists between the parties to the present petition? OPA

2. Whether the respondent is liable to be ejected from the shop in dispute for non-payment of rent? OPA

3. Whether shop in dispute is required for personal use and occupation? OPA

4. Whether respondent No. 1 has sublet the shop in dispute to respondent No.3? OPA

5. Relief.

5. Evidence was led by the parties. Learned Rent Controller returned the finding that the relationship of landlord and tenant is established. It further

held that since the amount of rent has been tendered and had been accepted by the landlord, therefore, ground of non-payment of rent is not

available. Learned Rent Controller further held that from evidence it is borne out that Gurudwara is not having any Joura Ghar (Shoe Stall) and,

therefore, the shoes of disciples are being stolen. Therefore, personal necessity of Gurudwara is made out. It also negated the evidence of RW1

Harish Goel, who stated that Joura Ghar is on the first floor as the same was not in consonance with the pleadings. After appreciating the evidence,

learned Rent Controller came to conclusion that ground of personal necessity is made out.

6. Learned Rent Controller further held that since it has been accepted by the tenant that Kashmir Singh is an employee and no evidence has been

led regarding the payment of wages or any register or document has been produced. Therefore, ground of subletting is also made in favour of the

landlord.

7. On appeal filed, learned Appellate Authority upheld the ground of personal necessity, however, it stated that the ground that the tenant has

created sub-tenancy is not made out from the evidence. Learned Appellate Authority has upheld as under:-

15. Both the parties are relying upon the said site plan and moreover the said site plan is elucidating the matter in controversy. So, it is taken into

consideration while deciding the petition. There is a small entrance of 4-1/2 feet for going inside the hall and ground floor and there are staircase

towards the northern side going on the first floor. The shop in question is situated on the northern side of the said entrance. As per the statement of

AW5 Amarjit Singh, Guru Granth Sahib is placed on the first floor of the said building. There are only two Halls with the Gurudwara but there is

no Shoe Stall. The visitors of the Gurudwara keep their shoes outside the Gurudwara. The shoes are stolen, therefore, the management committee

has decided to construct a Shoe Stall. Apart from the said place there is no other place for construction of the Shoe Stall. In the cross-examination

it has come that the Hall situated on the ground floor is used for the purpose of marriages and other functions.

8. A plea raised by the landlord that there is another shop which can be used for a Joura Ghar, which is lying vacant was not accepted as no

documentary evidence was led by the tenant. No documentary evidence was proved by the tenant to show that the second shop is lying vacant.

9. I have heard Mr.V.K.Bali, Advocate, appearing for the petitioner. He raised three submissions before me. His first submission is that a perusal

of site plan shows that another shop can be used by Gurudwara for constructing a Joura Ghar. A perusal of the site plan shows that a stair case to

the first floor, where Gurudwara is made, go from the shop of the petitioner. Therefore, it is convenient for the disciples to deposit the shoes in the

shop where the petitioner is inducted as tenant.

10. Secondly, a finding of fact by the two Courts below that second shop is not lying vacant and the petitioner has failed to prove so is sufficient to

reject the argument advanced by learned counsel for the petitioner.

11. After appreciating the evidence, the two Courts below have given a concurrent finding. While exercising revisional jurisdiction, I cannot re-

appreciate or re-appraise the evidence. The finding of the two Courts below cannot be said to be perverse. What Mr.Bali has reiterated before me

was a ground which has been raised before the two Courts below. From the evidence, an opinion has been formulated by the two Courts below

and I find no justification to substitute my opinion as the finding of the two Courts below suffers from no infirmity.

12. Hence, there is no merit in the present revision petition and the same is dismissed.

13. At this stage, Mr.Bali states that the petitioner be granted some time to vacate the premises. Mr.Bali states that three months time be granted

to the petitioner to vacate the premises. On furnishing of an undertaking before learned Rent Controller, Batala, that the petitioner shall vacate the

premises and hand over peaceful possession of the premises to the landlord, he shall be granted three months time. The petitioner shall also pay the

arrears of rent, if any, and shall also pay the rent of every month on or before 7th of each following month.