

**(2012) 05 P&H CK 0169**

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

**Case No:** Civil Revision No. 1126 of 2011 (O and M)

Prem Nath

APPELLANT

Vs

Varinder Kumar Jain and others

RESPONDENT

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**Date of Decision:** May 10, 2012

**Acts Referred:**

- East Punjab Urban Rent Restriction Act, 1949 - Section 13

**Hon'ble Judges:** L.N. Mittal, J

**Bench:** Single Bench

**Advocate:** Mohinder Kumar, for the Appellant; Ravish Bansal, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

L.N. Mittal, J.

CM No. 4732. CII of 2011

1. The application is allowed. Annexures P/1 to P/5 are taken on record subject to all just exceptions.

CM No. 473 S. CII of 2011

Allowed as prayed for.

CM No. 5070.CII of 2011

The application is allowed and Annexure P/6 (Photographs) are taken on record subject to all just exceptions.

CM No. 30514.CII of 2011

Allowed as prayed for.

CM No. 30515.CII of 2011

The application is allowed and report Annexure P/6 is taken on record subject to all just exceptions.

CR No. 1126 of 2011

Tenant Prem Nath has filed this revision petition having been unsuccessful before both the Authorities below.

Respondents/landlords Varinder Kumar Jain and his mother Shakuntla Rani (since deceased and represented by legal representatives) filed ejectment petition against the petitioner - tenant u/s 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short, the Act) seeking ejectment of the tenant from the demised shop on the ground that the same has become unfit and unsafe for human habitation. The tenant denied the same and pleaded that water from the tap on the roof installed by the landlords leaked through the roof and therefore, the roof required minor repairs.

2. Learned Rent Controller, Faridkot vide judgment dated 20.4.2007 allowed the ejectment petition and ordered ejectment of the tenant from the demised shop. Appeal preferred by the tenant has been dismissed by learned Appellate Authority, Faridkot vide judgment dated 21.12.2010. Feeling aggrieved, tenant has filed this revision petition.

3. I have heard learned counsel for the parties and perused the case file.

4. Counsel for the petitioner - tenant vehemently contended that the demised shop requires only minor repairs and is fit and safe for human habitation. Reliance in this regard has been placed on report Annexure P/6 given by tenant's Expert witness Ajay Kumar RW 4 and also on photographs Annexure P/6 produced in the revision petition.

5. On the other hand, counsel for respondents vehemently contended that concurrent finding recorded by the Authorities below that the demised shop has become unfit and unsafe for human habitation is justified by the evidence on record and report Annexure P/6 of tenant's Expert has also been taken into consideration by the Authorities below.

6. I have carefully considered the rival contentions. Both the Authorities below have discussed the evidence led by the parties threadbare and in great detail and have arrived at concurrent finding of fact that the demised shop has become unfit and unsafe for human habitation. The said finding is fully justified by the evidence on record. There is sufficient evidence of the landlords including Expert witness examined by them to depict that demised shop has become unfit and unsafe for human habitation. There appears to be dampness in the walls from ceiling to floor. There are cracks in the roof of the demised shop. These facts have also come in the evidence of the tenant himself. Besides the demised shop, there is Deori and another shop in the same building. There is common roof slab of both the shops

and Deori as per admitted facts. Tenant's Expert witness Ajay Kumar RW 4 admitted that there are cracks in RBRC roof slab. He also admitted that once RBRC slab is cracked, it cannot be repaired and it has to be replaced as a whole. It is thus manifest that the tenant's version in the written statement that the roof requires minor repairs is falsified by his own evidence. The roof requires complete replacement. The walls are also not in good condition. The tenant also admitted that the landlords had earlier repaired the roof. However, there is still leakage of water through roof. Tenant's version that the leakage is through latrine seat has not been substantiated. The tenant could not even tell as to when the latrine seat was fixed on the first floor. The existence of Parnala since inception was admitted by the tenant. Roof water is presently not passing through that Parnala and rather there is seepage and leakage of roof water. All these and other circumstances have been appreciated by the Authorities below to arrive at concurrent finding that the demised shop is unfit and unsafe for human habitation. The said finding is not shown to be suffering from any perversity, illegality, impropriety or jurisdictional error or based on misreading or misappreciation of evidence. For the reasons aforesaid, I find no merit in the instant revision petition which is accordingly dismissed.