

(2014) 01 P&H CK 0293

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1192 of 2011 (O&M)

Jasbir Singh

APPELLANT

Vs

Harchand Singh

RESPONDENT

Date of Decision: Jan. 29, 2014

Acts Referred:

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

Citation: (2014) 175 PLR 446 : (2014) 2 RCR(Rent) 494

Hon'ble Judges: Sabina, J

Bench: Single Bench

Advocate: Vijay Sharma, Advocate for the Appellant; Arun Jain, Sr. Advocate and Arnab Sood, Advocate for the Respondent

Final Decision: Dismissed

Judgement

Sabina, J.

Respondent had sought ejectment of the petitioner from the premises in question by moving a petition u/s 13 of the East Punjab Urban Rent Restriction Act, 1949 (the Act for short) on the ground of change of user, personal necessity, arrears of rent and that the petitioner had made material additions and alteration in the shop in question and had created nuisance. Case of the respondent, in brief, was that the premises in question had been taken on rent by Jasbir Singh at a monthly rent of Rs. 1,500/- for repair of cycle/scooter. However, now the wife of the tenant had started preparing tea for the customers w.e.f. June 2005. Tenant was in arrears of rent since June 2003. Premises in question was required by the respondent for his own personal use and occupation. Tenant had made material alterations in the premises in question and was creating nuisance.

2. Petitioner admitted the factum of tenancy between the parties. However, the other contentions in the ejectment petition were denied. The rate of rent as mentioned in the petition i.e. Rs. 1,500/- per month was denied and it was averred

that the shop in question had been taken on rent at a monthly rent of Rs. 200/- per month.

3. On the pleadings of the parties, following issues were framed by the Rent Controller:-

"1. Whether the respondents have changed the user of the premises, if so, its effect? OPA

2. Whether the premises are required for the personal use and occupation of the petitioner? OPA

3. Whether the respondents have made addition and alteration, if so its effect? OPA

4. Whether the respondents are source of nuisance? OPA

5. Whether the petition is not maintainable? OPR

6. Relief."

4. Learned Rent Controller allowed the ejectment petition on the ground of personal necessity and change of user.

5. Appeal filed by the petitioner against the judgment passed by the Rent Controller was dismissed by the Appellate Authority vide order dated 14.12.2010. Hence, the present petition by the petitioner-tenant.

6. Learned counsel for the petitioner has submitted that the shop in question was on the boundary wall of the residential premises of the respondent. The same could not be put to personal use by the respondent. The other two adjoining shops belonging to the respondent were lying vacant.

7. Learned counsel for the respondent, on the other hand, has submitted that the premises in question was required by the respondent for his own personal use. Petitioner had changed the user of the shop in question as the same had been let out for repairs of cycles/scooters and now the wife of the petitioner had started preparing tea for customers in the shop in question.

8. In the present case, relationship of landlord and tenant between the parties is not in dispute. The shop in question had been constructed on the boundary wall of the residential premises of the respondent. Admittedly, three shops had been constructed by the respondent and two shops are lying vacant.

9. Case of the respondent is that now he wanted to use the premises in question for his personal use as the tenanted premises was integral part of the residential house. It is a settled proposition of law that the landlord is the best judge qua his needs. The landlord has averred that he wanted to use the premises in question as a drawing room so that some formal guests could be attended by him in the said room. There is no occasion to doubt the submission of the landlord in this regard.

10. Admittedly, the premises in question had been taken on rent by the petitioner for running a cycle repair shop. Petitioner had admitted that now his wife had started preparing tea in the demised premises. Petitioner had failed to lead evidence that he had started the business of tea stall in the premises in question with the consent of the landlord. In these circumstances, the Courts below rightly came to the conclusion that the petitioner had changed the user of the shop. In these circumstances, the courts below had rightly ordered the ejectment of the petitioner on the ground of personal necessity and change of user. No ground for interference by this Court is made out.

Dismissed.