2026:PHHC:185684

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1547 of 2006

Dr. Kamal Kant & Another **.....**Petitioners

Versus

Santosh Rani & Others **.....**Respondents

Reserved on: 05.10.2026
Pronounced on: 06.10.2026
Pronounced Fully/Operative Part: Fully

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr. Ankush Singla, Advocate, for the appellants.

None for the respondents.

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DEEPAK GUPTA, J.

The present revision petition has been filed by the legal representatives of late Surinder Nath, the original landlord, assailing the concurrent orders dated 25.03.2003 passed by the learned Rent Controller, Ferozepur and dated 26.10.2005 passed by the learned Appellate Authority, Ferozepur, whereby the eviction petition filed by the original landlord under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short, 'the Act') was dismissed.

2. During the pendency of the proceedings, the original landlord Surinder Nath expired and his legal representatives were brought on record. Likewise, during the pendency of the proceedings, the original tenant Sunil also expired and his legal representatives have been brought on record.

3. The present revision is, therefore, being prosecuted by the legal representatives of the original landlord against the legal representatives of the original tenant. The respondents, though duly represented, are not contesting the revision before this Court.

4. The demised premises is Shop No.56 situated at Kabari Bazar, Ferozepur Cantonment. The relationship of landlord and tenant between the

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original parties is not in dispute. The eviction petition was founded principally on two grounds, namely, (i) non-payment/short tender of arrears of rent; and (ii) bona fide requirement of the demised premises for the use of the original landlord's son, Dr. Kamal Kant, for establishing an indoor hospital-cum-clinic..

Ground of arrears/short tender

5. Before considering the second ground, it would be appropriate to deal with the ground of non-payment of rent. The original landlord had pleaded arrears of rent and house tax with effect from 01.02.1996. The admitted rate of rent, as ultimately pleaded in the eviction petition, was ₹45/- per month.

6. On the first date of hearing, the tenant tendered rent for the period from 01.02.1996 to 29.02.2000 at the rate of ₹45/- per month, together with interest of ₹276/- and costs of ₹150/-. However, while making the tender, he deducted an amount of ₹779/- on the plea that the said amount had been deposited by him with the Cantonment Board towards house tax allegedly payable by the landlord.

7. The learned Rent Controller found that the tenant had failed to prove that the amount of ₹779/- had actually been deposited with the Cantonment Board on behalf of the landlord. The receipts allegedly evidencing such payment were not produced. Consequently, the tender made on the first date of hearing was found to be deficient by ₹779/-.

8. The learned Rent Controller, however, did not straightaway order eviction on that account. Taking note of the judgment of the Hon'ble Supreme Court in ***Rakesh Wadhawan and others v. M/s. Jagdamba Industrial Corporation and others, (2002) 5 SCC 440***, the learned Rent Controller granted the tenant one month's time to deposit the deficient amount of ₹779/-, failing which he was to suffer eviction. The order of the Rent Controller thus specifically afforded the tenant an opportunity to cure the deficiency.

8. The said course adopted by the learned Rent Controller was in conformity with the law declared by the Hon'ble Supreme Court in ***Rakesh***

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Wadhawan (supra). The proviso to Section 13(2)(i) requires assessment of the arrears of rent, interest and costs and contemplates compliance by the tenant with such assessment. Where, upon final adjudication, the amount is found deficient, the tenant is required to be afforded an opportunity to make good the deficiency. Eviction follows only upon failure to comply with such opportunity.

9. In the present case, the learned Appellate Authority specifically recorded that the arrears of rent had been deposited by the tenant in terms of the direction issued by the learned Rent Controller and, therefore, the issue regarding arrears was not pressed before the Appellate Authority. The finding of the learned Rent Controller on Issue No.1 was consequently upheld.

10. Learned counsel for the petitioners has nevertheless pressed the ground of short tender before this Court. There is no merit in the submission. Once the Rent Controller, in accordance with ***Rakesh Wadhawan (supra),*** granted an opportunity to the tenant to make good the deficiency and the subsequent record, as noticed by the Appellate Authority, shows that the amount was deposited, the tenant cannot be ordered to be evicted on the ground of the original deficiency in tender.

11. The object of the proviso to Section 13(2)(i) is not to visit the tenant with eviction for a curable deficiency, when the statutory mechanism for curing such deficiency has been duly followed and complied with. The original landlord may legitimately contend that the tender was initially short. Indeed, that finding of the Rent Controller is not being disturbed. But the legal consequence of that finding stood governed by the subsequent opportunity granted under ***Rakesh Wadhawan (Supra)***, which was availed of by the tenant.

12. Accordingly, the ground of arrears/short tender does not furnish a sustainable ground for eviction at this stage.

Bona fide requirement

13. The main question which now requires consideration is whether the courts below were justified in concurrently holding that the requirement of

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the original landlord for the use of the premises by his son, Dr. Kamal Kant, was not bona fide.

14. The case pleaded by the original landlord was that his son Dr. Kamal Kant, an MBBS and M.S. (Orthopaedics), was running a private hospital/clinic under the name and style of Tarlok Hospital from rented premises at Jhoke Road, Ferozepur Cantonment. According to the landlord, the premises presently occupied by the son were not suitable for an indoor hospital and lacked, inter alia, proper facilities such as private rooms and bathroom facilities. The demised shop adjoins the residential property of the landlord and the proposal was to remove the intervening wall and integrate the demised premises with the adjoining courtyard so as to establish an indoor hospital-cum-clinic. These facts were supported by the evidence of the original landlord and Dr. Kamal Kant.

15. The learned Rent Controller, however, rejected the claim primarily on the ground that Dr. Kamal Kant was already running his hospital from another premises; there was no imminent threat of eviction from those premises; no site plan of the existing hospital had been produced; no proposed site plan had been submitted to the Cantonment Board; and the original landlord had other accommodation available. The earlier eviction proceedings were also treated as a circumstance indicative of lack of bona fide requirement.

16. The learned Appellate Authority endorsed the aforesaid reasoning. It held that Dr. Kamal Kant was already running his hospital and was not seeking to start a new profession; that there was no threat of eviction from the premises presently occupied by him; that other accommodation was available with the landlord; and that the circumstance relating to the death of Dr. Kamal Kant's wife had lost significance after his remarriage. The appeal was consequently dismissed.

17. In the considered opinion of this Court, the aforesaid approach does not accord with the legal principles governing determination of bona fide requirement under Section 13(3)(a)(ii) of the Act.

18. The controversy regarding the expression "for his own use" occurring in Section 13(3)(a)(ii) of the Act stands authoritatively settled by the Hon'ble Supreme Court in ***Joginder Pal v. Naval Kishore Behal, (2002) 5 SCC 397***, wherein

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it has been held that the expression cannot be given a narrow or pedantic interpretation confined to actual physical use by the landlord himself. The requirement of the landlord for the use of his son may, in an appropriate case, constitute the landlord's own requirement within the meaning of the statutory provision.

19. The facts of ***Joginder Pal (supra)*** squarely cover the present case. There also, the premises were sought by the landlord for the office of his son, who was already professionally established. The mere fact that the son was already carrying on his profession elsewhere was not treated as destructive of the landlord's bona fide requirement.

20. Thus, the reasoning adopted by the learned Appellate Authority that the requirement of the son could not be considered bona fide merely because he was already running Tarlok Hospital from another premises proceeds upon an unduly restrictive interpretation of Section 13(3)(a)(ii).

21. The fact that Dr. Kamal Kant was already practising from another premises is, in fact, consistent with the pleaded requirement. The case of the landlord was not that his son had no place whatsoever from which to practise medicine. His case was that the existing premises were not suitable for the kind of indoor hospital-cum-clinic which he intended to establish and that the demised shop, because of its location adjoining the residential premises, would provide a more suitable arrangement.

22. The courts below have also placed considerable emphasis upon the fact that there was no immediate threat of eviction from the existing clinic. Such a consideration cannot be elevated into a condition precedent for establishing bona fide requirement. A landlord cannot be compelled to wait until the alternative premises become unavailable or until an eviction order is passed against him before he can seek possession of his own premises for a genuine and more suitable requirement.

23. Similarly, the absence of an already sanctioned site plan cannot, by itself, establish that the requirement pleaded by the landlord is mala fide. The proposed construction or alteration may be subject to approval of the competent

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authority. That question is distinct from the question whether the landlord has a genuine requirement for obtaining possession of his premises.

24. The learned Appellate Authority also proceeded on the basis that one shop belonging to the landlord was lying vacant. However, the mere availability of another premises is not conclusive. The Court has to examine whether the alternative accommodation is reasonably suitable for the requirement pleaded. The landlord had specifically pleaded the locational advantage of the demised shop, its adjacency to his residential premises and the feasibility of integrating it with the courtyard. The courts below have not established that the other premises were equally suitable for the proposed indoor hospital-cum-clinic.

25. It is settled that the landlord is ordinarily the best judge of his requirement. The tenant cannot dictate the manner in which the landlord should arrange his affairs, nor can the Court substitute its own assessment of convenience for that of the landlord, unless the requirement pleaded is shown to be a mere pretext for securing eviction.

26. The evidence in the present case does not justify such a conclusion. Dr. Kamal Kant is a qualified orthopaedic surgeon and is already running a medical establishment. His requirement for a premises better suited for an indoor hospital-cum-clinic cannot, therefore, be described as an imaginary or fanciful requirement.

27. The fact that Dr. Kamal Kant subsequently remarried and consequently one of the subsidiary circumstances regarding the absence of a lady member to look after his children ceased to exist also does not destroy the principal requirement. The death of his wife was relied upon as one of the circumstances explaining the convenience, which would follow if the clinic were located adjacent to his residence. It was not the sole foundation of the eviction claim.

28. The courts below have also attached considerable significance to the previous eviction proceedings initiated by the original landlord. It is true that the history of previous litigation is a relevant circumstance while examining bona fides. However, the mere fact that the landlord had previously initiated

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proceedings against the tenant cannot lead to an automatic conclusion that every subsequent claim is mala fide.

29. The previous proceedings relied upon by the tenant were founded upon different grounds, including non-payment of rent, change of user and material alteration. One such proceeding was dismissed in default and another was withdrawn. The present proceedings were founded, inter alia, upon the subsequently available statutory ground of bona fide requirement for the use of the landlord's son. The earlier proceedings could certainly be considered while assessing the overall conduct of the landlord, but they could not constitute a legal bar to consideration of a genuine requirement arising in changed circumstances.

30. The judgment relied upon by the petitioners in ***Manmohan Sharma v. Smt. Swaran Kaur, 2003 (1) RCR (Rent) 227*** also recognises that the Court has to examine the circumstances existing at the time of consideration of the subsequent eviction petition and that a previous proceeding does not necessarily foreclose a subsequent claim based upon changed or fresh circumstances.

31. The learned Appellate Authority itself recognised the settled proposition that the landlord is the best judge of his requirement, but then substantially neutralised that principle by examining the requirement from the perspective of the tenant's convenience. The relevant test, however, is whether the requirement is genuine and bona fide, and not whether the landlord could somehow continue with the existing arrangement.

32. The present case also has an additional feature, which deserves notice. The original landlord died during the pendency of the proceedings. The claim, therefore, cannot now be examined merely by asking whether the original landlord personally intended to occupy the shop. The requirement pleaded from the inception was for the use of his son, Dr. Kamal Kant. On the death of the original landlord, his legal representatives stepped into the proceedings. The death of the original landlord does not, by itself, extinguish a statutory ground which had already accrued and was being prosecuted through his legal representatives.

33. The present revision is not being allowed merely because the respondent-tenant (through his LRs) has chosen not to contest it. The Court has

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examined the record and the reasoning adopted by both the authorities below. The interference is warranted because the concurrent findings on bona fide requirement are founded upon an erroneous legal approach, particularly in treating the son's existing professional establishment, absence of an immediate threat of eviction and absence of a sanctioned proposed site plan as decisive against bona fides.

34. It is true that revisional jurisdiction under Section 15(5) of the Act is limited and that concurrent findings of fact ordinarily warrant restraint. However, where the findings are arrived at by applying an erroneous legal test or by overlooking the correct interpretation of the statutory expression "for his own use", interference in revision is justified.

35. Consequently, this Court is of the considered view that the petitioners have established the bona fide requirement of the demised premises for the professional use of Dr. Kamal Kant and that the contrary findings recorded by the courts below cannot be sustained.

Conclusion

36. For the reasons recorded above, the present revision petition is allowed. The impugned order dated 26.10.2005 passed by the learned Appellate Authority, Ferozepur and the order dated 25.03.2003 passed by the learned Rent Controller, Ferozepur are set aside. The eviction petition filed by late Surinder Nath is allowed on the ground of bona fide requirement under Section 13(3)(a)(ii) of the Act.

37. The respondent-tenant and persons claiming through him are directed to hand over vacant and peaceful possession of the demised shop to the petitioners within two months from today i.e. the date of passing of this order.

38. Pending application(s), if any, shall stand disposed of.

(DEEPAK GUPTA)
JUDGE

06.10.2026
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Whether Speaking/reasoned *Yes*
Whether reportable *No*

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