

**In the High Court of Punjab and Haryana at Chandigarh**

**Civil Revision No. 1852 of 2002 (O&M)  
Date of Decision: 13.2.2014.**

Mukesh Kumar and others

.....Petitioners

Versus

Kaushalaya Devi and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SABINA**

Present: Mr. Anshuman Chopra, Advocate for  
Mr. Amarjit Markan, Advocate  
for the petitioners.

Mr. Ajay Sharma, Advocate for  
Mr. Shailender Kashyap, Advocate  
for respondents No. 1 and 3.

None for respondent No. 2

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**SABINA, J.**

Petitioners had sought ejectment of Prem Chand (since deceased) by filing a petition under Section 13 of Haryana Urban (Control of Rent and Eviction) Act, 1973 ('Act' for short) on the grounds of personal necessity, arrears of rent and that the premises had been rendered unsafe and unfit for human habitation.

Tenant, in his reply, prayed that he was regularly paying the rent and denied the other contentions in the ejectment petition.

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

- 1. Whether the respondent is liable to be ejected from the tenanted premises on the ground of arrears of rent w.e.f. 1.12.91 to 30.9.1995? OPP*

2. *Whether the tenanted premises has become unfit and unsafe for human habitation? OPP*
3. *Whether the tenanted premises is required by the petitioners for their own use and occupation bonafide ? OPP*
4. *Whether there is relationship of landlord and tenant between the parties ? OPP*
5. *Whether petitioners have no locus standi to file the present petition ? OPR*
6. *Whether the petition is not maintainable in the present form ? OPR*
7. *Relief.*

Parties led their evidence in support of their case.

Rent Controller vide order dated 4.9.2000, allowed the ejectment petition and ordered the ejectment of the tenant on the ground of personal necessity. However, the said order was reversed in appeal by the Appellate Authority vide order dated 13.11.2001. Hence, the present petition by the petitioners-landlord.

Learned counsel for the petitioners has submitted that landlord had specifically pleaded in the ejectment petition that they were not occupying any residential building in the urban area concerned nor had vacated any such building after the commencement of the Act. Landlord could not be expected to lead evidence in the negative. There was nothing on record that the plea of the landlord was false. Hence, the Appellate Authority had erred in dismissing the ejectment petition filed by the petitioners.

Learned counsel for the tenants, on the other hand, has submitted that the Appellate Authority had rightly dismissed the

ejectment petition filed by the petitioners.

In the present case, the relationship of landlord and tenant between the parties is not in dispute. Landlord had sought ejectment of the tenants on the ground of personal necessity. It was the case of the landlord that his son Mukesh Kumar required the premises in question for his separate residence and his family members.

Para Nos. 2 (ii) and (ix) of the ejectment petition read as under:-

*“That the tenancy premises is very old and has out-lived its normal life and has become unfit and unsafe for human habitation. Big cracks have developed in the walls and the Karies of the roof have almost been eaten by white ants and can fall at any moment. Tenancy premises has become dangerous.*

*That the petitioners have not vacated any other residential building in the Urban Area of Ambala Cantt/Ambala Saddar without any sufficient cause after the commencement of Act, 1939 Act and are not in occupation of any other residential building to meet their requirement in the said Urban Area of Ambala Saddar/Ambala Cantt.”*

Thus, the landlord had specifically pleaded that they had not vacated any residential premises in the urban area nor were in occupation of any other residential area to meet their requirement in the said urban area. The landlord had specifically deposed that the premises in question was required for their personal use and occupation. The said need of the landlord could

not be doubted. It is a settled proposition of law that the landlord is the best judge qua his needs. The Appellate Authority erred in dismissing the ejectment petition filed by the landlord by asking the landlord to lead evidence in the negative. Landlord was not required to lead any evidence in the negative qua his pleading in para No. 2 (ii) and (ix) of the ejectment petition. Further, there was no evidence on record to the effect that the said pleadings made by the landlord in the ejectment petition, were false. Hence, the Appellate Authority erred in dismissing the ejectment petition filed by the landlord. Moreover, as per Section 13 of the Act, protection has been given to the tenant that in case the landlord fails to occupy the premises in question within the stipulated period or rents out the same to another tenant, then evicted tenant can apply for restoration of possession to the Rent Controller.

Accordingly, this petition is allowed. Consequently, the judgment passed by the Appellate Authority dated 13.11.2001 is set aside and the order passed by the Trial Court dated 4.9.2000 is upheld. Tenant is granted two months time to hand over the vacant possession of the property in question to the landlord.

**(SABINA)  
JUDGE**

**February 13, 2014**  
**Gurpreet**