

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR-3377-2025 (O&M)
Pronounced on : 04.07.2025**

Raj Arora (since deceased) through His LRs

..... Petitioner

Versus

Smt. Santosh Lamba

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by : Mr. Chetan Mittal, Senior Advocate with
Mr. Kunal Mulwani, Advocate and
Mr. Divanshu Jain, Advocate and
Mr. Abhinav Goel, Advocate
for the petitioner.

VIKRAM AGGARWAL, J

This is tenant's revision petition against the order dated 17.04.2025, passed by the Appellate Authority, Chandigarh, dismissing the appeal filed by the petitioner/tenant against the order dated 08.12.2023, passed by the Court of Rent Controller, Chandigarh vide which the eviction petition preferred by the respondent-landlady under Section 13 of the Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the Rent Act') was allowed.

2(i). The facts, as emanating from the pleadings, are that the respondent-landlady (Smt. Santosh Lamba) instituted a petition (Annexure P-2) under Section 13 of the Rent Act against Raj Arora (Predecessor in interest of the present petitioners, who are the legal representatives of Sh. Raj Arora) for his eviction from the first floor of House No.1162, Sector 37-B, Chandigarh (hereinafter

referred to as 'the demised premises).

2(ii). The case set out in the eviction petition was that Sh. Raj Arora was a tenant on the first floor of the demised premises since 01.04.2008. The demised premises had been let out at a monthly rent of Rs.8,000/- which was increased to Rs.8400/- w.e.f. 11.06.2009 when the rent agreement was extended for a period of 11 months.

2(iii). Eviction of the tenant was sought on the ground that the respondent-landlady required the demised premises for her daughter namely Preeti Lamba who was a teacher in Sachdeva Public School, Pitampura. She was a divorcee and was living with her parents. She was due to retire on 31.03.2019. The petitioner and her husband, both of whom were old and ailing, wanted to shift to Chandigarh alongwith their daughter where the landlady and her husband would reside on the ground floor and their daughter would reside on the first floor and would also take tuitions for her day to day expenses.

2(iv). It was averred that the husband of the respondent-landlady who was owner to the extent of 50% share in the house had earlier filed an eviction petition against the tenant in occupation of the ground floor, on the ground of personal necessity, pursuant to which the ground floor had been vacated in 2015. However, for, the respondent-landlady suffered a paralytic attack, she alongwith her husband could not shift to Chandigarh.

3(i). The eviction petition was opposed by way of written statement (Annexure P-3). Certain preliminary objections were raised. It was averred that there was no bonafide need and the sole purpose of the institution of the eviction petition was to evict the petitioner and enhancement of rent by letting out the

demised premises to some other tenant. It was averred that pursuant to the eviction of the tenant on the ground floor, the respondent-landlady and her husband had not occupied the same as a result of which it stood proved that there was no need of the first floor. It was also averred that the ground floor was sufficient for the needs of the landlady even if she intended to shift. On merits, the relationship of landlord and tenant, execution of the lease deed, rate of rent etc. were admitted. Remaining averments were denied and a case was set up that there was no bonafide need of the respondent-landlady.

3(ii). It was stated that Smt. Preeti Lamba was residing at Delhi and had no intention of shifting to Chandigarh. It was averred that since the demised premises was residential, no tuitions could be taken in the same as it would amount to misuse of residential premises. It was also averred that the respondent-landlady alongwith her husband had been living in a joint family in Delhi with their married son and grand children and had no intention of shifting to Chandigarh.

4. Replication was filed in which the averments made in the written statement were denied and those in the eviction petition were reiterated.

5. From the pleadings of the parties, the following issues were framed by the trial Court:-

1. *Whether the petitioner is entitled for eviction on the ground of bona fide personal necessity ? OPP*
2. *Whether this Court at Chandigarh has got no territorial jurisdiction to try and decide the present suit ? OPR*
3. *Whether the petitioner has not approached the Court with clean hands and concealed material facts ? OPR.*
4. *Relief.*

6. The parties led their respective evidence.

7. The Court of Rent Controller decreed the eviction petition filed by the respondent-landlady. The appeal filed by the petitioner-tenant against the said decision was dismissed, leading to the filing of the present revision petition.

8. Learned Senior Counsel representing the petitioner was heard.

9(i). Sh. Chetan Mittal, learned Senior Counsel representing the petitioner strenuously urged that the impugned orders are not sustainable. He submitted that the need of the landlady was not bonafide and was a mere wish and desire and was in fact her greed and that she wanted eviction of the petitioner from the demised premises with a view to let it out to some other person at a hefty rent. Learned Senior Counsel referred to the entire oral and documentary evidence as also the pleadings which were duly produced during the course of arguments and it was submitted that both Courts had erroneously and illegally accepted the eviction petition.

9(ii). Learned Senior Counsel submitted that despite the ground floor of the house in question having been vacated in 2015, pursuant to an eviction petition having been filed by the husband of the respondent-landlady on the ground of personal necessity, the respondent-landlady and her husband did not occupy the same, which itself proves that there is no actual need of the demised premises. Learned Senior Counsel submitted that this alone would be sufficient to demolish the case of the respondent-landlady.

9(iii). It was further contended that the ingredients of Section 13 (3)(a)(i) of the Rent Act were missing in the eviction petition as also in the evidence. It was

submitted that once the respondent-landlady had sought eviction of the petitioner-tenant from the demised premises on the ground that the same was required for use and occupation of the daughter of the respondent-landlady, it was a legal requirement for the respondent-landlady to have pleaded in the eviction petition that her daughter did not possess any such premises in Chandigarh or that she had not vacated any such premises without any reasonable cause. Learned Senior Counsel submitted that neither were such averments made in the eviction petition nor they were made in the evidence of the respondent-landlady or her daughter.

9(iv). Learned Senior Counsel further submitted that even the second floor of the house in question is lying vacant which has been concealed in the eviction petition but has been admitted by Smt. Preeti Lamba in the cross-examination and that the said portion would be sufficient for their needs, even if they intend to shift.

9(v). It was lastly contended that even the application for additional evidence (Annexure P-6) was erroneously rejected by the First Appellate Court. Learned Senior Counsel submitted that by way of additional evidence, the petitioner-tenant intended to prove that the demised premises could not be used for conducting tuition classes and the same would be considered a misuse. The application had also been filed to prove that the ground floor of the premises were again let out to a tenant namely Arabindo after getting the same vacated on the ground of personal necessity. In support of his contentions, reliance was placed upon the judgments of Coordinate Benches of this Court in the cases of *State Bank of Patiala versus S.Zulzuaoar Singh Virk and others* 2003 (1) RCR (Rent) 670, (Law Finder Doc Id # 43342), *Manmohan Lal versus Shanti Parkash Jain*

2014 (5) RCR (Civil) 667 (Law Finder Doc Id # 603761), *Ajit Singh & Anr. Versus Jit Ram & Anr.* 2008 (4) RCR (Civil) 390 (Law Finder Doc Id # 146060), *Rajiv Gupta versus Jiwan Ram 2015 (1) RCR (Civil) 762* (Law Finder Doc Id # 631813), *Subhash versus Yash Pal 2014 (10) RCR (Civil) 1370*, *Joginder Singh Sawhney versus Harbans Lal 2003 (1) RCR (Rent) 528* and *Vidya Rattan Taneja & Anr. Versus Ram Lal Sachdeva & Anr. 2009 (1) RCR (Civil) 639*.

10. I have considered the submissions made by learned Senior Counsel representing the petitioner and have perused the paper book including the pleadings and part of the oral evidence which was duly produced during the course of arguments.

11(i). The demised premises is the first floor of House No. 1162, Sector 37-B, Chandigarh. The respondent-landlady (Smt. Santosh Lamba), who is stated to be 86 years old, is a co-owner of the same alongwith her husband Sh. Amrit Lal Lamba. Without going into the effort that must have been put in by the Couple in acquiring the said property, a part of which is now under occupation of a belligerent tenant, this Court cannot help but notice the settled position of law that a landlord is the best Judge of his requirements and a tenant is absolutely no one to dictate terms and conditions to the landlord. Reference can be made to the judgments of the Supreme Court of India in the cases of *Ragavendra Kumar Vs. Firm Prem Machinery and Co., 2001 (1) RCR (Rent) 135 (SC)*, *Rishi Kumar Govil Vs. Maqsoodan and Others, 2007 (1) RCR (Rent) 405* and *United India Insurance Co. Ltd. Versus Sarla Ahuja 1998(46) DRJ 29* (Law Finder Doc Id # 371758). It would be the absolute wish of the landlord as to which portion of the property they would require for what purpose and the manner in which they wish

to utilize the same. The only condition is that such need should be bonafide and should not be a mere wish or desire. In the considered opinion of this Court, the respondent-landlady successfully proved that her need was bonafide and that in the evening of her life, she wished to settle down in Chandigarh on the ground floor of the house in question with her daughter staying on the first floor.

11(ii). The argument that no commercial activity would be permitted in a residential premises is a completely mis-founded argument not all open to be raised by a tenant. Each and every person who resides in a residential property is bound by the laws of the area. Nowhere was it stated nor was it ever the case of the respondent-landlady that her daughter would run a coaching centre in the demised premises. If a retired teacher teaches a few students for a social cause, it cannot, by any stretch of imagination, be said to be a commercial activity violating the rules and regulations. In any case, the Appellate Authority rightly observed that it would be for the landlord to deal with such situations. In any case, merely because it was stated that the daughter of the respondent-landlady would take tuitions would not mean that this is the sole ground on which eviction was being sought and infact the primary ground was that the respondent-landlady wanted her retired divorced daughter to live with her in her old age and the need projected in the eviction petition was that of the landlady and not that of the daughter. It was nowhere the case of the respondent-landlady that the demised premises was required for the purpose of holding tuitions by her daughter. The argument is, therefore, completely devoid of merit and is rejected.

11(iii). The second argument that despite the ground floor having been vacated pursuant to an eviction petition having been filed by the husband of the

respondent-landlady on the ground of personal necessity, the same was not occupied which proves that there was no actual bonafide necessity is also devoid of merit. Due explanation about non-occupation of the ground floor was given by the landlady and was proved by leading evidence. It came on record that the landlady had suffered a paralytic attack in March, 2015 as a result of which she could not shift to Chandigarh. It has to be borne in mind that the landlady is an old woman and her husband also unfortunately expired in 2019. Merely because they were unable to occupy the ground floor of the house in question would not mean that their need is not bonafide.

11(iv). As regards the second floor being vacant, no doubt, Smt. Preeti Lamba while appearing as PW2 admitted in her cross-examination that the second floor was lying vacant. However, in the same breath, she stated that it comprises of two rooms. She also stated that she would reside on the ground floor with her mother. In the considered opinion of this Court, a tenant cannot be permitted to go into such minute details as to whether the daughter of the landlady would reside on the ground floor or on the first floor. Anybody would have a desire to have an independent set up on an independent floor and then whether she sleeps at night on the ground floor or on the first floor would hardly be a concern of the tenant. The second floor must not have been found to be suitable for the needs of the respondent-landlady or her daughter. In any case, it would not be open for the tenant to suggest that the daughter of the respondent-landlady can reside on the second floor. At the cost of repetition, it is reiterated that the tenant is absolutely nobody to give such a suggestion.

11(v). As regards the dismissal of the application for additional evidence,

adequate reasons were given by the Appellate Authority. I do not find any illegality in the same. All points had duly been covered and there would be no necessity of permitting additional evidence to be produced which appeared to be an attempt to delay the proceedings.

11(vi). Coming to the argument on which a lot of stress was laid by learned Senior Counsel that the ingredients of Section 13 (3)(a)(i) of the Rent Act were missing as it had not been pleaded that the daughter of the landlady also did not have any such premises in her occupation or that she had not vacated any such premises without reasonable cause, the same is also found to be devoid of merit. First of all, it was duly averred in the eviction petition as also in the affidavit tendered in examination-in-chief on behalf of the respondent-landlady that she did not possess any other residential premises in the urban area of Chandigarh nor she had vacated any such premises after the enforcement of the Rent Act. It has to be borne in mind that the need which was projected in the eviction petition was that of the respondent-landlady and not that of her daughter. Under the circumstances, it was not essential for her to have mentioned that her daughter did not possess any other residential premises in the urban area of Chandigarh nor had she vacated such premises. In arriving at this opinion, I draw support from a judgment of a Coordinate Bench in the case of ***Harbhajan Singh (deceased) through his LR Versus Lakhbir Singh and others 2019 (2) RCR (Rent) 316*** (Law Finder Doc Id # 1486326);

12. To have a look on the need as projected by respondent No.1-landlord, reference may be made to the pleadings in para 5 as reproduced above, wherein he has pleaded that son of respondent No.1, respondents No.2 and 4 want to live in this house. While

appearing as PW1, he has stated that after being given possession of 1st and 2nd floor, respondent No.1 started living there with his family, which, however, was got vacated by respondent under police pressure. Kamalpreet Singh son of elder sister of respondent No.1 Lakhbir Singh is suffering from blood cancer and is regularly getting treatment from PGI, Chandigarh for which family has to stay at Chandigarh to attend the patient. Father of Kamalpreet is also suffering from serious ailments and is bed ridden, as such, the house in question is urgently required by the family. He has further stated that entire house is required by respondents as they do not own any other accommodation in or around Chandigarh. He and his family are frequent visitors to Chandigarh and want to live here with their son, who is residing at Chandigarh in a rented accommodation. Kuldeep Kaur, respondent No.2 has stated that her son Jagmohan Singh has come to Chandigarh in connection with his transport business and she wants to settle here. She has also corroborated the statement of PW1 Lakhbir Singh regarding the requirement of demised premises. From the aforesaid statements of witnesses, it is evident that respondents have requirement of the demised premises. Respondents are four in number and they want to live in this house with son of respondent No.1, 2 and 4. The requirement has also been projected for the son of sister of Lakhbir Singh, who with his family comes to Chandigarh for treatment from PGI. From the above evidence, it is clear that respondents-landlord required this entire house for their bonafide need. It has though not been specifically averred in the petition that son of respondent No.1 is dependent on him but the tone and tenor of his pleadings and evidence, it is evident that his son wants to live with him in this house and to explain the need of the son, no specific wording is provided under the Rent Act for pleading this fact. The same can be inferred from the facts and circumstances of each case. Lakhbir Singh has stated that after completing his studies, his

son respondent No.3 has come to Chandigarh. He is doing his job here and living in a rented accommodation. This shows that the accommodation with the respondent is not sufficient to accommodate his son. Even otherwise, it is a settled principle of law that the landlord is best judge of his need and tenant cannot dictate any terms in this regard.

11(vii). No doubt, in the case of *Ajit Singh & Anr. versus Jit Ram & Anr.* (supra), the Supreme Court of India held that such averments were essential. In that case, eviction was being sought from a non-residential premises. Still further, the premises in question had fallen to the share of the son of the landlord and it was under those circumstances that the Supreme Court held that such averments were essential. A coordinate Bench dealt with the issue in the case of *Navyug Goods Carrier versus Manpreet Singh and another 2018 (2) RCR (Rent) 496* (Law Finder Doc Id # 1242986) wherein a similar issue had arisen. After discussing the judgment of the Supreme Court of India in the case of *Ajit Singh & Anr. versus Jit Ram & Anr.* (supra), the Coordinate Bench held that no such averments were required;

19. On careful reading of the aforesaid judgments, it is apparent that the Court has relied upon the case of Ajit Singh (supra). The facts of the case of Ajit Singh (supra) are entirely different. Still further, even with respect to the landlord, this Court after the judgment passed by the Full Bench, has taken a consistent view that the landlord is required to prove the ingredients, however, it is not necessary that those ingredients must be pleaded. Even if the requirements are not pleaded but those are proved by leading evidence, it is sufficient compliance of the 1949 Act. Although, the view on this aspect is consistent, however, reference can be made to

a judgment in the case of M/s Bhatia Cloth House v. Dr. Raj Kumar Gupta and another, 2008(4) RCR (Civil) 250 and para 16 thereof is extracted as under:-

"The first contention relates to the assertion by counsel for the petitioner that the respondents have failed to plead that they are not occupying any other building and have not vacated any such building without sufficient cause, within the urban area of Ambala City. A perusal of the ejectment petition discloses that in sub-para (b) of para 5 and para 6 of the ejectment petition, the landlords pleaded that they are not in possession of any other shop within the urban area of Ambala City. In the written statement, the aforementioned averment was not denied. Further more, it is consistent position in law that ambiguity in pleadings regarding the ingredients, set out in Section 13(3)(a) of the Act, if made good in the evidence, is sufficient compliance of the statutory provisions. Reference in this regard may be made to Daulat Ram v. Girdhari Lal, 1980 (2) RCR (Rent) 108, Romesh v. Mukand Lal, 1982(2) RCR 66 and Baldev Raj v. Ram Lal, 2006(2) RCR (Rent) 193 : 2006(4) CCC 264. Respondent No. 1 admittedly, does not occupy any shop within the urban area of Ambala City. He is in occupation of a residential premises. Ejectment in the instant petition has been sought from a shop. Requisite and necessary evidence has been led to establish that respondent No. 1 is not in occupation of any other shop in the Urban Area of Ambala City. The sale of the adjoining shop, initially occupied by respondent No. 1 for his clinic, would not adversely affect the merits in any manner. The shop was sold in the year 1994, whereas the ejectment petition was filed in the year 2001. Respondent No. 1 sold and vacated the shop housing his clinic on the bona fide belief that he could carry on his clinic at his house and in furtherance of his belief, opened a clinic at his residence. Respondent No. 1 has been compelled to pray for ejectment, as he faces an imminent threat of resumption of his house. The tenant has not denied, whether by pleadings or by evidence, that respondent No. 1 is not in occupation of any commercial premises in the Urban Area of Ambala City and, therefore, as the necessity pleaded is commercial in nature, and as the landlords are not in occupation of any commercial premises in the urban area of Ambala City and have not

vacated any commercial premises without just cause, they have satisfied the ingredients of Section 13(3)(a) of the Act. The argument, raised with regard to the failure to comply with the statutory ingredients of the Act, must, therefore, fail and the concurrent findings, returned by the learned Courts below, must be upheld. An argument that as the landlords did not disclose the sale of the adjoining shop and other properties, while filing the ejectment petition, would merit dismissal of the ejectment petition for concealment of material facts, cannot be accepted. All material evidence, namely, with respect to the sale of the adjoining shops and the other properties, was adduced before the Rent Controller."

20. If one carefully reads the judgments passed by the Court in the cases of Manmohan Lal (supra) and Rajiv Gupta (supra), it is apparent that the attention of the learned Judge was not drawn to the consistent view of this Court in the judgments referred to above.

21. As noticed earlier, the 1949 Act does not require any particular form of pleadings and there is no format of the rent petition provided under the 1949 Act. The Court is required to examine the pleadings and the evidence and then find out whether sufficient facts have come on record to prove that the landlord fulfills those ingredients.

22. In the present case, the petitioner-tenant cannot be heard on the ground of absence of specific pleadings of the ingredients of the Section 13 (3)(a)(ii) of the 1949 Act, because the tenant never took this objection while filing reply. The landlords still complied with the requirements of the 1949 Act, while filing replication. Still further, when the evidence was led, the landlords specifically stated that their son does not own any other property in the urban area concerned. Once in the reply no objection is taken by the tenant, the landlord is deprived of opportunity to amend the pleading. Hence, this Court is of the view that the tenant is estopped from subsequently raising this plea once no objection to this effect has been taken in the reply.

11(viii). Another aspect is that no such objection was ever raised in the written statement by the tenant and, therefore, it would not be open for the tenant to now raise this objection. This view was also taken by the Coordinate Bench in the case of *Navyug Goods Carrier versus Manpreet Singh and another* (supra) with which I am in respectful agreement.

11(ix). I have gone through the judgments relied upon by learned Senior Counsel representing the petitioner. In the case of *State Bank of Patiala versus S.Zulzuaoar Singh Virk and others* (supra), a Coordinate Bench took the view that a residential building could not be reconstructed to make a non-residential building and that eviction from a non-residential building could not be sought for a residential purpose. The judgment seems to have been referred since the vice versa would also be true. However, the matter has been dealt with in detail in the preceding paragraphs and for the reasons given therein, the said judgment would not come to the aid of the petitioner. In the case of *Manmohan Lal versus Shanti Parkash Jain* (supra), a Coordinate Bench, while relying upon the judgment of the Supreme Court of India in the case of *Ajit Singh & Anr. Versus Jit Ram & Anr.* (supra), held that in the absence of the ingredients as envisaged under Section 13 of the Rent Act, an eviction petition could not succeed. However, in view of the judgment in the case of *Navyug Goods Carrier versus Manpreet Singh and another* (supra), this judgment would also not come to the aid of the petitioner. In the remaining judgments, it was held that in the absence of ingredients, generally, as laid down under Section 13 of the Rent Act, an eviction petition would not succeed. As has been discussed in the preceding paragraphs, the ingredients of Section 13 (3)(a)(i) of the Rent Act were duly pleaded in the

eviction petition as also in the affidavit tendered in examination-in-chief and, therefore, the argument is devoid of merit.

11(x). It is also settled law that in revisional jurisdiction, concurrent findings are not liable to be disturbed unless the findings are found to be perverse. The Supreme Court of India, while deciding with a matter where concurrent findings recorded by the Court of Rent Controller and the Appellate Authority had been reversed by the High Court in revision, held that in exercise of revisional jurisdiction, unless a finding is perverse, there can be no interference.

In view of the aforesaid discussion, the present revision petition is devoid of merit and the same is accordingly dismissed.

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

04.07.2025
mamta

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No