

CR No.3388 of 2024 (O&M)
CR No.3415 of 2024 (O&M)

Neutral Citation No:=2024:PHHC:125741

2024:PHHC:125735

2024:PHHC:125741



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on: 12.09.2024
Pronounced on: 23.09.2024

1. CR No.3388 of 2024 (O&M)

Satish Kumar Soni through his LRs

.....Petitioners

Vs.

Dimpy Malhotra and another

.....Respondents

2. CR No.3415 of 2024 (O&M)

Sudarshan Sharma @ Komal

.....Petitioner

Vs.

Dimpy Malhotra

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Jigyasa Tanwar, Advocate for the petitioner
in CR-3388 of 2024.

Mr. N.C. Kinra and Mr. Harsh Kinra, Advocates
for the petitioner in CR No.3415 of 2024.

Mr. Ashish Aggarwal, Senior Advocate with
Mr. Nitin Kaushal, Mr. Vishal Pundir and
Ms. Aashna Aggarwal, Advocates for the
respondent(s).

DEEPAK GUPTA, J.

Two different tenants, namely, Satish Kumar Soni and Sudarshan Sharma (*petitioners herein*) of two adjoining shops forming part of the same property, owned by same landlord Smt. Dimp Malhotra (*respondent herein*), have approached this Court by way of the present revisions, assailing the ejectment orders passed against them by learned Rent Controller, Ludhiana, and as affirmed by the Appellate Authority.

2. None of the counsels have any objection to hear and decide



both these petitions together, as similar evidence has been produced in both the cases.

3. In order to avoid confusion, parties shall be referred as per their original status i.e. 'landlord' or 'tenant'.

4. In the two ejectment petitions filed by landlord - Dimpi Malhotra on the same date in March, 2010, it was pleaded that Sardar Didar Singh and Sardar Shamsheer Singh used to be owners of the property No.B-XIX/392 Maharani Jhansi Road, Ghumar Mandi, Civil Lines, Ludhiana. They had rented out one shop each (*tenanted/demised shops*) to the two respondents on monthly rent of ₹700/- each, as per details given in para No.1 of the two petitions. The entire property i.e. B-XIX/392 Maharani Jhansi Road, Ghumar Mandi, Civil Lines, Ludhiana, was purchased by the petitioner from the previous owners by virtue of two registered sale deeds dated 17.08.1995 and this way, the petitioner became owner/ landlady of the property and the respondents became tenants under her on the same terms and conditions.

5. Ejectment of the two tenants was sought on the similar grounds i.e. non-payment of rent, the premises having become unfit & unsafe for human habitation, change of user and bonafide necessity of the petitioner. Same facts and circumstances have been pleaded so as to seek the ejectment. The Rent Controller has allowed the ejectment only on the ground of bonafide necessity of the landlord and that finding has been affirmed by the Appellate Authority, which is assailed before this Court.

6. One of the grounds to assail the impugned orders, raised by learned counsel for the petitioners is that landlady has put forth his necessity for the demised shops for commercial use in order to open a departmental store, whereas the property in question is a residential property and that such a change of use is not permissible.



7. The Appellate Authority after considering this contention, has rightly rejected the same. It is not in dispute that demised shops are being used by both the tenants for commercial purposes, as they are running shops therein. It has been held by Hon'ble Supreme Court in ***Nand Kishore Vs. Yashpal Singh, 2009 (16) SCC 634*** that where residential building is given on rent for commercial purpose with mutual consent, then landlord thereof can seek eviction of the property on the ground that this residential building is needed for the commercial purpose. Moreover, once the appellant/ tenant himself is running a commercial activity at the spot, he cannot complaint at least on this ground.

8. Similarly, in ***Jarnail Singh Vs. Vijay Kumar, 2018 (4) PLR 700***, it had been held by this Court that if a building is used for non-residential purposes, landlord cannot be deprived of possession thereof for being used for the same purpose. This Court observed further that it would be totally inequitable, if the landlord is deprived of an opportunity to use the building being used for non-residential purpose by the tenant. Same view was also taken by this Court in ***M/s Bharat Electricals Vs. Dr. Sukhdev Raj Goyal, 2012 (4) RCR (Civil) 26***.

9. In view of the legal position as above, the contention raised by learned counsel for the petitioners is hereby rejected.

10. Another contention raised by learned counsel for the petitioners – tenants is that earlier ejectment petitions filed by the landlady in 2001 were dismissed in 2005 and even the appeals of the landlady were dismissed by the Appellate Authority and, therefore, the present petitions are not maintainable being barred by the principle of res-judicata.

11. This Court does not find any merit in the contention and learned Appellate Authority, after considering the submissions of both the sides, has rightly rejected the same.



12. As per the evidence on record, earlier ejectment petitions were filed by the landlady in September, 2001 on the ground of non-payment of rent, the premises having become unfit & unsafe for human habitation and bonafide necessity. However, the landlady did not lead any evidence to support the contentions and so, her evidence was closed under Order 17 Rule 3 CPC. The petitions were dismissed in March 2005. The appeal filed by the landlady against these orders was dismissed by the Appellate Authority in December, 2005. The present petitions have been filed in March 2010 i.e. more than four years from the dismissal of the appeals arising out of the earlier ejectment petitions and after more than 8 years of the earlier petitions.

13. It has been held by Hon'ble Supreme Court in ***K.S. Sundaraju Chettiar Vs. M.R. Ramchandra Naidu, AIR 1994 SC 2129*** that bonafide requirement is a recurring cause of action and even if the existence of such a cause of action had not been found in the previous proceedings for eviction, the same cannot be discarded, if such a claim is established by the cogent evidence adduced by the landlord in the subsequent proceedings. Hon'ble Supreme Court clarified that subsequent application can be filed by the landlord seeking ejectment by justifying a case of bonafide requirement.

14. Similarly, in ***N.R. Narayan Swamy Vs. B. Francis Jagan (SC) Law Finder doc Id #3610***, it has been held by Hon'ble Supreme Court that where earlier eviction petition is dismissed on the ground of bonafide requirement, fresh eviction petition can still be filed when genuine new necessity arises in future. In eviction petition, the ground of bonafide requirement and non-payment of rent are recurring causes and that landlord is not precluded from instituting fresh proceedings.

15. Same view has been taken by co-ordinate Benches of this Court



in *Darshana Devi Vs. Kewal Krishan, 2015 (4) RCR (Civil) 230; Amrit Lal Walia Vs. Bhagwant Singh, 1989 (2) RCR (Rent) 238* and *Ranjit Singh Vs. Narinder Kaur, 2008(1) RCR (Civil) 239*.

16. In view of the afore-said settled legal position, the contention of learned counsel for the petitioners – tenants is not tenable at all. Merely because the earlier ejectment petitions filed in 2001 were dismissed in 2005, cannot be ground to reject the subsequent petitions, which have been filed in March, 2010 i.e. more than 08 years from the date of filing of the earlier ejectment petitions, though of course, it is required to be seen that landlord has been able to make out a case for ejectment in the subsequent proceedings.

17. Another contention raised by learned counsel for the petitioners- tenants is that landlady is guilty of concealing her other properties. Learned counsel has drawn attention towards a letter dated 23.11.2015 (*Ex.R5*), which was received by the tenant from the Returning Officer-cum-Sub Divisional Magistrate, Vidhan Sabha, Halqa Faridkot, which shows that the tenant Sudarshan Sharma had sought the information about the properties held by the landlady Smt. Dimpri Malhotra and her husband Deep Malhotra qua Vidhan Sabha Elections 2012 under RTI Act, 2005. As per this letter, since it was a third party information under the RTI Act, 2005, therefore, Deep Malhotra was asked in writing to provide the information but said Deep Malhotra gave in writing that since this information was personal and private, therefore, the information may not be supplied to anyone. Learned counsel contends that the mere fact that the husband of the petitioner intentionally did not disclose his other properties, so inference should be drawn that petitioner owned other properties in Ludhiana.

18. This Court does not find any merit in this contention. As per



the testimony of the petitioner – landlady, she does not own or possess any other non-residential or commercial building within the urban limits of Municipal Corporation Ludhiana nor had vacated any such other building after coming into force of the Rent Act, 1949. There is no evidence on the part of the tenants so as to rebut the above-said testimony of the landlady.

19. It has been held by this Court in ***Kanwaljit Singh Walia Vs. Gurcharan Kaur, Law Finder doc Id#1667239*** that landlord is not obliged to disclose premises, which are not in his occupation. It has also been held in ***Bombay Kashmir Goods Carrier Vs. Charanjit Singh, Law Finder Doc Id#2040602*** that property not in occupation of the landlord must be distinguished from the owned properties and that if the property is not in occupation, no disclosure is necessary. In yet another case titled ***Shammi Kapur Vs. Raghbir Kaur (P&H), Law Finder Doc Id# 933634***, it has been held by this Court that mere ownership of other properties does not make any difference. Section 13 of the Act uses the terms “*Use and Occupation*” and not words “the ownership”. Therefore, on this ground alone, no concealment can be alleged.

20. In the present case, the tenants- petitioners have failed to bring on record any details regarding the other properties in occupation of the landlady. As such, both the Courts below have rightly rejected the contention of the tenants to the effect that the landlord did not disclose about the other properties and so, any inference should be drawn against her. Said contention has no merit.

21. Coming to the case put forth by the landlady regarding her bonafide requirement, first of all, let us see the legal position in this regard. What is the criteria to judge the need of the landlord to be bonafide and as to what does the term ‘*bonafide need*’ means, has been considered by Hon'ble Supreme Court in plethora of authorities.



22. Reliance can be placed upon ***Paramjit Singh Vs. Jagat Singh 2014 (2) RCR (Civil) 774***, wherein this court referred to various authorities of the Hon'ble Supreme Court as well as of High Court and then held in para No.9 as under:

"9. Though the terminology of 'bonafide requirement' has not been defined in the Act but in ***Raghunath G. Panhale v. M/s Chagan Lal Sudarji and Company, 1999(2) RCR(Rent) 485***, the Hon'ble Supreme Court has enumerated the following guidelines:-

1. Requirement of landlord must be both reasonable and bonafide.
2. The word "reasonable" connotes that requirement is not fanciful or unreasonable. It cannot be mere desire.
3. The word requirement coupled with the word reasonable means that it must be something more than mere desire but need not certainly be a compelling or absolute or dire necessity.
4. A reasonable and bonafide requirement is something in between a mere desire or wish on one hand that a compelling or dire or absolute necessity at the other end.
5. It may not be need in praesenti or within reasonable proximity in the future. The word bona fide means that need must be honest and not be trained with any oblique motive.
6. Language of provision cannot be unduly stretched or strained as to make it impossible for landlord get possession. Construction of relevant statutory provision must strike a balance between right of landlord and right of tenant.
7. Court should not proceed on assumption that requirement of landlord was not bona fide and that tenant could not dictate to the landlord as to how he should adjust himself without getting possession of tenant premises.

23. This Court then further held in paras No.10 & 11 as under:

"10. The Hon'ble Apex Court in various pronouncements had laid down guiding principles to be followed by a court while adjudicating the



bonafide requirement of a landlord, which should be genuine, honest and conceived in good faith. In *M/s Rahabhar Productions Pvt. Ltd. v. Rajendra K. Tandon, 1998(1) Rent Control Reporters 482*, it has been observed as under:-

"The phrase "bona fide need" or "bona fide requirement" occurs not only in the Delhi Rent Control Act but in the Rent Control legislation of other States also. What is the meaning of this phrase has been considered innumerable times by various High Courts as also by this Court and requires no citations to explain its legal implications. Even then reference may be made to the decision of this Court in *Ram Das v. Ishwar Chander and others, 1988(1) RCR(Rent) 625*, in which it was indicated that "bona fide need" should be genuine, honest and conceived in good faith. It was also indicated that landlord's desire for possession, however honest it might otherwise be, has, inevitably, a subjective element in it. The "desire" to become "requirement" must have the objective element of a "need" which can be decided only by taking all relevant circumstances into consideration so that the protection afforded to a tenant is not rendered illusory or whittled down. These observations were made in respect of the provisions contained in E.P. Urban Rent Restriction Act, 1949."

11. The bonafide requirement of a landlord depends upon facts and circumstances of each case and there cannot be a strait jacket formula for this purpose. The burden lies upon the landlord to establish that the accommodation is bonafide required by him for personal use. While adjudicating whether the requirement is bonafide or not, it is to be seen objectively and not subjectively by the Court though, the landlord is the best judge of his requirement. The need of the landlord must exist so as to distinguish it from mere wish or desire."

24. In *Sarla Ahuja Vs. United India Insurance Company Ltd. 1998*



(2) Apex Court Journal 704, it has been held by Hon'ble Supreme Court that when landlord asserts that he requires building for his own occupation, Rent Controller shall not proceed on presumption that requirement is not bona fide. Hon'ble Supreme Court held as under:

“When a landlord asserts that he requires his building for his own occupation the Rent Controller shall not proceed on the presumption that the requirement is not bona fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona fide. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bona fides of the requirement of the landlord, it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself.”

25. In the light of aforesaid legal position, it is required to be seen as to whether landlady in the present case has been able to prove her bonafide need for the tenanted premises so as to order the ejection of the respondents – tenants.

26. When in the light of aforesaid legal position, the evidence on file is considered, it is found that the tenants were unable to rebut the evidence of the landlady regarding her bonafide need. It is the specific case of the landlady supported by evidence that family of her husband was originally settled in Faridkot. When the terrorism was at peak in Punjab and the State was disturbed, Faridkot became unsafe for living and therefore, the family shifted to New Delhi. The landlady started business of boutique there-at. However, the business could not run successfully in New Delhi, as she was new to the City and with the restoration of normalcy in Punjab, she decided to settle at Ludhiana, it being a centrally located city and



commercially developed. It is further testified by the landlady that when the property N: B-XIX/392 was purchased, of which the demised shops are the part, the same was old construction. Most of the property except the shops on the Ghumar Mandi roadside were unoccupied. The unoccupied portion was not being used for last several years and with the passage of time, this portion became dilapidated and unfit and unsafe for human habitation. The property was purchased by the petitioner -landlady for constructing a suitable building for her business as well as her residence. All the shop-keepers were requested to vacate the premises. Though two shop-keepers vacated the shops in their possession but the present two tenants i.e. Sudarshan and Sunil kept on delaying the matter. After giving details about the unsafety of the premises and the previous litigation, the landlady testified further that she requires the tenanted premises for her bonafide need. The entire rear portion behind the shops had already fallen. Malba thereof has since been removed. The landlady had earlier temporarily allowed M/s Oasis Distilleries Pvt. Ltd., a company in which her husband and sons are Directors to occupy the other shops for running a liquor vend at the time of filing of the present petitions. As of now, those vacant shops are given to M/s Om Sons Marketing Pvt. Ltd., in which son of landlord is Director on temporary basis. A temporary structure has been raised on the rear side for storing the stocks, which can be removed at any time and the building material could be re-used as the said structure is purely temporary one. It is testified by the landlord further that she intends to demolish the tenanted – demised shops along with the other shops already vacated by the tenants and will get the property developed and construct a Multi-Purpose Self Service Departmental Store. It is also testified that she and her family have sufficient funds for raising such type of Departmental Store and that property being situated in the commercial hub of the city, is fully suitable for the said purpose. The property shall be used for business purpose for her own use. It has also been testified by the



landlady that her husband Shri Deep Malhotra was elected MLA from Faridkot during the pendency of this eviction petition and that in the course of his official functions, he has to continuously travel between Faridkot and Chandigarh. Ludhiana falls in between the two places and therefore it is the most suitable place for the landlady to settle down at Ludhiana, as demised premises being situated in Ghumar Mandi Main Chowk, which is a commercial hub, is most suitable for setting up a Self Service Multi-Storeyed Departmental Store. She has also testified that presently, she is maintaining her residence at 225-B-Rajguru Nagar, Ludhiana.

27. The tenants, *i.e. petitioners herein* could not refute the aforesaid evidence produced by the landlady by producing any cogent evidence.

28. The contention raised by the learned counsel for the petitioners is that landlady has not produced any evidence to have taken any step for constructing a departmental store *i.e.* the projected necessity. It is also the contention that landlady is an old lady and she belongs to a very affluent family, politically as well as financially, and that her projected need is fanciful, as it is not necessary that she will start any business in Ludhiana or that she requires to start any such business there-at. It is also the contention that the two shops earlier got vacated by the landlady are now in possession of the family of the landlady and therefore, the bonafide necessity has come to an end.

29. There is no merit in the contention and the same has been rightly rejected by the Courts below. It is not for the tenant to dictate to the landlord about her/ his bonafide necessity. If a landlord asserts that he requires the tenanted premises to expand the business, his need must be presumed as bonafide.

30. In ***Balbir Kaur Vs. Roop Lal, 2012 (1) RCR (Civil) 279***, the landlord was a reputed businessman having business in various countries.



The landlord sought eviction of the tenant from the ground floor of the shop-cum-office at Chandigarh to start a big departmental store of world repute, for which the landlord had the financial capacity. It was held by this Court that the need was bonafide and that it is the prerogative of the landlord to expand his business. If the landlord asserts that he requires a tenanted premises to expand his business, his need must be presumed as bonafide. Rent Controller shall not proceed to presume that alleged need is not bonafide. It is not open to the Rent Controller to say that landlords are already having business in different countries and cities and are well settled in their lives and hence they do not require demised premises for setting up departmental store of world repute in Chandigarh.

31. Similar view was taken by this Court in ***M/s Satpal Vijay Kumar Vs. Sushil Kumar, 2011 (2) RCR (Civil) 82***. In ***Madho Ram Garg Vs. Baldev Singh Bath and another, 2008(3) RCR (Civil) 286***, the landlord wanted shop for business. This Court went to the extent in holding that it is not part of the Court's duty to examine as to whether the business to be set up would be successful or not in the tenanted premises. The success or otherwise of a proposed business lies in the realm of speculation and the Courts abjure speculative conclusions. The choice of the premises, the nature or the extent thereof rest solely with the landlord.

32. Further, simply because the landlady – respondent has grown old, as is contended by learned counsel for the petitioners, cannot be a ground to reject the ejection petitions, once she has proved her bonafide necessity.

33. Apart from the above, it is most important to notice that the finding of the Courts below regarding the bonafide necessity of the landlady is a concurrent finding of fact. Whether this Court exercising in its revisional jurisdiction can interfere in the said finding or not, is to be seen.



34. In ***Daya Rani vs. Shabber Ahmed, 2019 (2) RCR (Rent) 365***, an ejection petition was allowed by the Rent Controller. The appeal of the tenant was dismissed by the Appellate Authority. The revision was allowed by High Court while exercising its power under Section 15 (6) of the Haryana Urban Control of Rent and Eviction Act, 1973, thus, setting aside the concurrent findings of the courts below and dismissing the ejection petition. The landlord approached Supreme Court. Setting aside the order of the High Court, Hon'ble Supreme Court held as under:-

“10. The provisions relating to revisional powers of the High Court in other Rent Legislations came up for consideration before the Constitution Bench of this Court in ***Hindustan Petroleum Corporation Ltd. vs. Dilbahar Singh 2014(4) RCR (Civil) 162: 2014(2) RCR (Rent) 210” (2014) 9 SCC 78***. The matter was referred to the larger Bench because of two lines of decisions which were somewhat inconsistent as is apparent from the referral order quoted in para 3 of the decision.

”3. The two-Judge Bench in ***Hindustan Petroleum Corporation Ltd. Case (2014) 9 SCC 102*** felt that there was conflict in the two decisions and for its resolution referred the matter to the larger Bench. In the reference order *Hindustan Petroleum Corpn Ltd. v. Dilbahar Singh 2014(9) SCC 102* (dated 27.8.2009), the two-Judge Bench observed, thus:

”The learned counsel for the appellant has placed reliance on a three-Judge Bench decision of this Court in ***Rukmini Amma Saradamma vs. Kallyani Sulochana***, wherein Section 20 of the Kerala Rent was in question. It was held in the said decision that though Section 20 of the said Act provided that the Revisional Court can go into the ‘propriety’ of the order but it does not entitle the Revisional Court to reappraise the evidence. A similar view was taken by a two-Judge Bench of this Court in ***Ubaiba vs. Damodaran (1999) 5 SCC 645***.



On the other hand the learned counsel for the respondent has relied upon a decision of this Court in [*Ram Dass v. Ishwar Chander 1988\(1\) RCR \(Rent\) 625: \(1988\) 3 SCC 131*](#) which was also a three-Judge Bench decision. It has been held in that case that the expression 'legality and propriety' enables the High Court in revisional jurisdiction to reappraise the evidence while considering the findings of the first appellate court. A similar view was taken by another three-Judge Bench of this Court in [*Moti Ram vs. Suraj Bhan AIR 1960 Supreme Court 655.*](#)

From the above, it is clear that there are conflicting views of coordinate three-Judge Benches of this Court as to the meaning, ambit and scope of the expression 'legality and propriety' and whether in revisional jurisdiction the High Court can reappraise the evidence. Hence, we are of the view that the matter needs to be considered by a larger Bench since this question arises in a large number of cases as similar provisions conferring power of revision exists in various rent control and other legislations, e.g. [Section 397](#) of the Code of Criminal Procedure. Accordingly, we direct that the papers be placed before the Hon'ble the Chief Justice for constituting a larger Bench."

"11. While approving the law [laid down by](#) a Bench of three Judges in [*Rukmini Amma Saradamma vs. Kallyani Sulochana & Ors. \[\(1993\) 1 SCC 499\]*](#), the Constitution Bench in para 43 of its judgment observed:-

"43. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the first appellate court/first appellate authority because on re-appreciation of the evidence, its view is different from the court/authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the court/authority below is according to law and does not suffer from



any error of law. A finding of fact recorded by court/authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that if allowed to stand it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself as to the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or reassess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

12. It would, therefore, be relevant to consider the view taken by this Court in the ***Rukmini Amma Saradamma’ case (supra)***. That matter arose from the exercise of Revisional Power by the High Court under [Section 20](#) of the Kerala Buildings (Lease and Rent Control) Act, 1965, which is in pari materia with [Section 15\(6\)](#) of the Act and empowers the High Court to call for and examine the record relating to any order passed as to the legality or propriety of such order or proceeding. Para 20 of the decision in ***Rukmini Amma Saradamma*** was to the following effect:

“20. We are afraid this approach of the High Court is wrong. Even the wider language of [Section 20](#) of the Act cannot enable the High Court to act as a first or a second court of appeal. Otherwise the



distinction between appellate and revisional jurisdiction will get obliterated. Hence, the High Court was not right in re- appreciating the entire evidence both oral or documentary in the light of the Commissioner's report (Ext. C1 and C2 mahazar). In our considered view, the High Court had travelled far beyond the revisional jurisdiction. Even by the presence of the word "propriety" it cannot mean that there could be a re- appreciation of evidence. Of course, the revisional court can come to a different conclusion but not on a re-appreciation of evidence; on the contrary, by confining itself to legality, regularity and propriety of the order impugned before it. Therefore, we are unable to agree with the reasoning of the High Court with reference to the exercise of revisional jurisdiction."

13. In **Ram Dass [(1988) 3 SCC 131]** and **Moti Ram [AIR 1960 SC 655]**, the scope of revisional power of the High Court under [Section 15\(5\)](#) of the East Punjab Urban Rent Restriction Act, 1949 was in issue. Said [Section 15\(5\)](#) is in pari materia with [Section 15\(6\)](#) of the Act.

14. The law is thus well settled that while exercising revisional power, the High Court cannot reappreciate the evidence on record: both oral or documentary. Further the consideration while exercising revisional jurisdiction is confined to find out whether the findings of fact rendered by the Court or Authority below were according to law and did not suffer from any error of law."

35. In another case titled **Vaneet Jain Vs. Jagjeet Singh, 2000(5) SCC 1**, Hon'ble Supreme Court discussed the scope of the revisional power of the High Court. The matter had arisen out of the ejectment petition filed under Section 13 of the Haryana Urban Control of Rent and Eviction Act, 1973. Hon'ble Supreme Court referred to sub-Section (6) of Section 15 of the Act which confers the revisional jurisdiction upon the High Court and which reads as under:-

"4. Sub-section (6) of [Section 15](#) of the Act empowers the High Court to



exercise its revisional jurisdiction for the purpose of satisfying itself if an order passed by the Rent Controller or the appellate authority is in accordance with law. The question that arises for consideration is whether the High Court in its revisional jurisdiction can reassess or re-evaluate the evidence only to come to a different finding than what has been recorded by the Court below. This Court in the case of [Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta \(1999 \(6\) SCC 222 \)](#) held, that the High Court cannot enter into appreciation or reappraisal of evidence merely because it is inclined to take a different view of the facts as if it were a court of facts. However, the High Court is obliged to test the order of the Rent Controller on the touchstone of whether such an order is in accordance with law. For that limited purpose the High Court would be justified in reappraising the evidence. In [Sarla Ahuja v. United India Insurance Co. Ltd., 1998 \(8\) SCC 119](#), it was held that the High Court while exercising the jurisdiction can reappraise the evidence only for a limited purpose for ascertaining as to whether the conclusion arrived at by the fact-finding court is wholly unreasonable.

5. A perusal of sub-section (6) of [Section 15](#) of the Act shows that the power of the High Court to revise an order is not an appellate power, but it is also true that it is not akin to power exercisable under [Section 115](#) of the Code of Civil Procedure, 1908. It is no doubt true that the High Court would be justified in interfering with the order passed by the appellate authority if the legality or propriety of such order demands such interference. We are, therefore, of the view that it is not permissible for the High Court to reassess or reappraise the evidence to arrive at a finding contrary to the finding of fact recorded by the Court below....."

[underlined portion emphasised by this court]

36. Yet another case titled ***Ajit Singh and another Vs. Jeet Ram and another, 2008(4) RCR (Civil) 390***, reached before Hon'ble Supreme Court out of the proceedings of eviction filed under East Punjab Urban Rent



Restriction Act, 1949 (*like the present case*), wherein also it has been held by Hon'ble Supreme Court that a finding of fact as recorded by the Appellate Authority on the question of bonafide requirement of the demised shop cannot be interfered with by the High Court. The High Court under its revisional jurisdiction could have interfered with such findings of fact arrived at by the Appellate Authority only if the High Court had found that the finding of the Appellate Authority on the question of bonafide requirement was either perverse or arbitrary.

37. The legal position as explained above make it clear that:

- The revisional power of the High Court under Section 15(6) of the Rent Act is not appellate power and so, the high court cannot re-appreciate the evidence on record, whether oral or documentary only because it is inclined to take a different view of facts as it were a court of facts.
- The High Court can interfere with the findings of fact arrived at by the Rent Controller/ Appellate Authority, only if it finds that the said finding on the question of bonafide requirement is either perverse or arbitrary, or there is illegality or perversity of such a nature that it demands interference.

38. On account of entire discussion as above, it is held that none of these petitions have any merit. The Courts below have rightly appreciated the entire evidence on record. There is no scope for interference in the well-reasoned findings as recorded by the Courts below. This Court does not find any illegality or perversity so as to interfere in the impugned orders. Both the petitions are hereby accordingly dismissed.

39. Both the petitioners-tenants are hereby directed to vacate their respective demised shops on or before 30.11.2024 positively. This time is

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granted to them subject to clearance of all the arrears at the rate last agreed between the parties. They will also make payment of user charges up to 30.11.2024 in advance. It is further made clear that in case the tenants-petitioners herein fail to vacate the demised shops till 30.11.2024 and the petitioner – landlady is compelled to file the execution to get the actual physical possession of the same, the defaulting tenant will have to pay the mesne profits/ usual charges @ ₹1 lakh per month to be effective from 01.12.2024 onwards till the shop (s) is/are actually vacated. Ordered accordingly.

40. A photocopy of this order be placed on the file of connected case.

September 23, 2024

(DEEPAK GUPTA)
JUDGE

Renu

Whether Speaking/reasoned	Yes
Whether Reportable	Yes