

2018 PLRonline 1300

(editor: 2018 PLRonline 1209 reversed)

Supreme Court of India

JUSTICE ROHINTON FALI NARIMAN, MS. JUSTICE INDU MALHOTRA

M/S Kaithal Provision Store v. Sanjay Bansal

CIVIL APPEAL NO. 7250 OF 2018 (Arising out of S.L.P. (C) No. 14031 OF 2018)

26.07.2018

East Punjab Urban Rent Restriction Act, 1949, (III of 1949) Section 13(a) - Bona fide requirement - Appellate Court reversed order of ejection on the ground that - One of the shops owned by the landlord, the tenant was evicted on the ground of bona fide requirement of a business being started, but no business was started even after a period of two years thereafter - Landlords advisedly did not go into the witness box because they suppressed the fact that 50% of a commercial property was purchased during the pendency of the petition - High Court reversed the order in Revisional jurisdiction - The High Court in the exercise of revisional jurisdiction acted as a second Court of first appeal, re-appraised the facts, and without advertng to the grounds mentioned by the lower Appellate Court merely cited the mantra that it is well settled that the landlord is the best person to decide about his need - Apex Court has repeatedly held that in exercise of the revisional jurisdiction, unless a finding is perverse, there can be no interference in revision - Order set aside - Ejectment set aside.

Revisional jurisdiction - The High Court in the exercise of revisional jurisdiction acted as a second Court of first appeal, re-appraised the facts, and without advertng to the grounds mentioned by the lower Appellate Court merely cited the mantra that it is well settled that the landlord is the best person to decide about his need - Apex Court has repeatedly held that in exercise of the revisional jurisdiction, unless a finding is perverse, there can be no interference in revision - Order set aside.

ORDER

Heard the learned Senior Counsel/Counsel appearing for the parties.

Leave granted.

In the present case, the landlords went to the learned Rent Controller, Chandigarh with a case of arrears of rent and bona fide requirement, both of which were found in their favour. The Appellate Court, which is the final Court of fact, reversed both the findings stating that there were, in fact, no arrears, which finding was not disturbed by the High Court in

revision, and therefore became final.

So far as bona fide requirement was concerned, two things impressed the Appellate Court, namely, that in one of the shops owned by the landlord, the tenant was evicted on the ground of bona fide requirement of a business being started, but no business was started even after a period of two years thereafter. Even otherwise, it was held that in the factual circumstance of this case, the landlords advisedly did not go into the witness box because they suppressed the fact that 50% of SCO Nos. 74-75 was purchased during the pendency of the petition.

The High Court in the exercise of revisional jurisdiction acted as a second Court of first appeal, re-appraised the facts, and without advert to the grounds mentioned by the lower Appellate Court merely cited the mantra that it is well settled that the landlord is the best person to decide about his need.

This Court has repeatedly held that in exercise of the revisional jurisdiction, unless a finding is perverse, there can be no interference in revision. See – for the revisional jurisdiction of the East Punjab Urban Rent Restriction Act, 1949, which is the Act applicable in the present case – *Ajit Singh v. Jit Ram*, (2008-4)152 PLR 740 (para 25).

Consequently, we allow the appeal and set aside the judgment of the High Court and reinstate that of the first Appellate Court.