Before Sanjay Kumar, J.

SATISH KUMAR @ SATISH PAL—*Petitioner*

versus

KARTAR SINGH—*Respondent*

CR No. 2044 of 2020 (O&M)

August 11, 2020

A. East Punjab Urban Rent Restriction Act, 1949—S. 13(3)(a)(i)—Eviction—Bonafide need—Requirement of shops for settling his son and daughter in law—Held, Landlord specifically stated in his eviction petitions that he and his family members had no business space in their possession and that they had not rented out or vacated such space within municipal limits of Town—Once landlord made such averments it was enough and it was for tenants to disprove his claim—Question of landlord proving that he had no such premises or that he had not vacated such premises did not arise when he claimed that such situation never existed—Burden of proof in reverse cannot be expected to be discharged by landlord and law does not insist upon such illogical measure of proof—Rear portion of building stood in name of wife of landlord and property was residential in nature—Landlord's failure to mention details of rear portion of building has no impact, in terms of requirements of law —Landlord's silence as to rear portion of building in his eviction petitions carries no import and has no impact on their maintainability —Hence, order of eviction upheld.

B. East Punjab Urban Rent Restriction Act, 1949—S. 13(3)(a)(i)— Eviction —Bonafide need— Plea of suppression of facts by landlord in relation fourth shop—Held, admission of landlord during cross-examination that it was 'shop' and separate electricity meter did not in any way contradict its professed use as 'store' for his business in utensils—Thus, no suppression of existence of so-called fourth shop—Therefore, landlord did not even stand to benefit in any manner by withholding information as to its existence.

Held, that landlord specifically stated in his eviction petitions that he and his family members/son/daughter-in-law had no business space in their possession and that they had not rented out or vacated such space within the municipal limits/local limits of Nawanshahr Town. Therefore, there were sufficient pleadings, as required by sub-

sections (b) and (c) of Section 13(3) (a) (i) of the Act of 1949. Once the landlord made such averments it was enough and it was for the tenants to disprove his claim. The question of the landlord proving that he had no such premises or that he had not vacated such premises did not arise when he claimed that such a situation never existed. The burden of proof in the reverse cannot be expected to be discharged by the landlord and law does not insist upon such an illogical measure of proof. Significantly, it is not the case of the tenants that the landlord or his son or daughter-in-law were in possession of any other commercial space or that they had vacated such space in Nawanshahr without sufficient cause after the commencement of the Act of 1949.

(Para 32)

Further held, that it is an admitted fact that the rear portion of this building stands in the name of the wife of the landlord and does not belong to him. The landlord claimed that the said property is residential in nature and no evidence was let in by the tenants to the contrary. On the other hand, their site plans, Exs.R-1 and R-2, also support this stand of the landlord. The landlord's failure to mention details of this rear portion of the building therefore has no impact, in terms of the requirements of law. The legal provision only requires a landlord to disclose whether he is in occupation of like premises or had vacated such premises without sufficient cause and no more. That situation did not arise in the present case vis-a-vis the rear portion of the building, as it was not commercial in nature. Though the tenants seem to have contended to that effect they failed to lead evidence that a shop was leased out to Prashar General Store in the rear portion of this building. Thus, the landlord's silence as to the rear portion of this building in his eviction petitions carries no import and has no impact on their maintainability.

(Para 33)

Further held, that the admission of the landlord during cross-examination that it was a 'shop' and had a separate electricity meter did not in any way contradict its professed use as a 'store' for his business in utensils. Thus, there was no suppression, so to say, of the existence of the so-called fourth shop and, in any event, it is not shown to be adequate for the business expansion proposed by the landlord. Viewed thus, it is clear that the landlord did not even stand to benefit in any manner by withholding information as to its existence.

(Para 35)

Avnish Mittal, Advocate, *for the petitioner* in CR No. 2044 of

2020.

Gurjot Singh Sadhrao, Advocate, *for the petitioner* in CR No.2045 of 2020.

Krishan Singh Dadwal, Advocate, for the caveator-respondent in both cases.

SANJAY KUMAR, J.

CM-7338-CII-2020 in CR N0. 2044 of 2020 and CM-7349-CII-2020 in CR No. 2045 of 2020

(1) Applications are ordered. Exemption is granted as prayed for. Annexures P-1 to P-5 are taken on record in CR No. 2044 of 2020.

Main cases

(2) By separate orders dated 10.04.2017, the learned Rent Controller, SBS Nagar, allowed two eviction petitions, *viz.*, Rent Petition Nos.4420 and 4421 of 2013, filed by a landlord under Section 13 (3) (a) (i) of the East Punjab Urban Rent Restriction Act, 1949 (for short, 'the Act of 1949'). The tenants were directed to deliver vacant possession of their rented shops within two months. In appeal, these orders were confirmed by the learned Appellate Authority, SBS Nagar, *vide* individual orders dated 15.02.2020. Aggrieved thereby, the tenants are in revision under Section 15(5) of the Act of 1949.

(3) As stated *supra*, the respondent-landlord is one and the same in both these revisions. He entered appearance on caveat through Mr. Krishan Singh Dadwal, learned counsel.

(4) As comprehensive arguments were advanced by both sides, these two cases are amenable to final disposal at the admission stage by way of this common order. The learned counsel also expressed their consent to the passing of final orders in both the revisions at this stage.

(5) Parties shall hereinafter be referred to as ‘the tenants’ and ‘the landlord’ respectively.

(6) The landlord’s case may be summed up thus: He had shifted to Nawanshahr after the Delhi riots of 1984 and purchased the building, in which the subject shops are situated, under registered sale deed dated 04.09.1987 from one Vijay Kumar. The two shops in question were let out to the tenants by the erstwhile owner, Vijay Kumar, in the year 1977 and the rent fixed for each shop was Rs. 200/- per month. The tenants attorned to the landlord after he stepped into the shoes of the

former owner. Thereafter, the rent was increased to Rs. 270/- per month in the case of Satish Kumar, the petitioner/tenant in CR No.2044 of 2020, and to Rs. 230/- per month in the case of Mukhtiar Singh and Balwinder Singh, the petitioners/tenants in CR No.2045 of 2020. While so, the landlord asked the tenants to vacate their shops on the ground that he required the same for his own use. According to him, there were three shops and a rear portion in this building and he was in possession of one of the shops. He was in the trade of brass, stainless steel, aluminum and other utensils etc. The shops on either side of his shop were in the possession of the tenants. Baljinder Singh, his son, had come of age and got married to one Harpreet Kaur. They were both unemployed. Baljinder Singh was 28 years of age at the time of institution of the eviction petitions. The landlord wanted to see his son and daughter-in-law settled and also expand his own business, apart from starting other businesses on a higher scale. He required a big hall for this purpose and intended to demolish the existing three shops and construct a single hall so that they could start business operations therein, catering to the needs of all the family members. The tenants refused to vacate the premises despite his requests and the landlord was, therefore, constrained to file the eviction petitions.

(7) The tenants resisted these petitions by raising various objections. They asserted that the landlord had not come to Court with clean hands as he had not disclosed the availability of sufficient accommodation/other property, situated on the eastern side of the shops in dispute. They further asserted that there were four shops in existence and not three, as claimed by the landlord, and that the fourth shop was also in the possession of the landlord. They claimed that one other shop was let out by the landlord to Prashar General Store about 4-5 years ago. Further, Satish Kumar claimed that Baljinder Singh was not the son of the landlord and that he was the son of his brother-in-law. The tenants also claimed that Baljinder Singh was self-employed and had no *bonafide* personal need to start a business by using the subject shops. They pointed out that the landlord had not indicated the nature of the business that he wanted to start and claimed that the eviction petitions were a result of their failure to enhance the rent despite the landlord's pressure.

(8) The landlord filed replications in response to the objections raised by the tenants. Therein, he stated that he had not concealed relevant facts from the Court. He asserted that the tenants could not raise objections as to the suitability of the accommodation for the

purpose of starting a business or as to the requirement of the landlord and his family members. He admitted that the rear portion of the building owned by Vijay Kumar had been purchased by him in the name of his wife but stated that it was in the nature of residential premises. He denied that any shop was given on rent to Prashar General Store, as alleged by the tenants. He stated that Baljinder Singh was his adopted son and produced the registered adoption deed dated 10/18.02.1988 in proof thereof. He again stated that his son was unemployed and reiterated his prayer for eviction of the tenants on the ground of *bonafide* personal need.

(9) On the above pleadings, the learned Rent Controller settled issues in both the cases. The issues framed were identical in terms and it would suffice if the issues in Rent Petition No. 4420 of 2013 are perused. These issues read thus:

> 1.'1. Whether the respondent is liable to be ejected from the shop in question as the petitioner requires the same for his personal use and occupation?
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> 2.Whether the present petition is not maintainable?
>
> 3.Whether the petitioner has not come to the Court with clean hands?
>
> 4.Whether the site plan produced by the petitioner is not correct as per spot?
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> Relief'

(10) In both the cases, the landlord examined himself as PW1 and Baljinder Singh, his son, as PW2. Gurcharan Singh, the draftsman of Ex. P-2 site plan was examined as PW-3. Exs.P-1 to P-14 were marked by the landlord in Rent Petition No. 4420 of 2013, while Exs.P-1 to P-16 were marked by him in Rent Petition No. 4421 of 2013. Satish Kumar, the tenant in Rent Petition No. 4420 of 2013, examined himself as RW1. Baldev Saini, the draftsman of Exs. R-1 and R-2 site plans, was examined as RW-2 and Narinder Kumar, who was running a shop in the neighbourhood, was examined as RW-3. In Rent Petition No. 4421 of 2013, Mukhtiar Singh and Balwinder Singh, the tenants, examined themselves as RWs-1 and 4 respectively. Baldev Saini, the draftsman, was examined as RW-2 while Mohinder Singh, a third party, was examined as RW-3.

(11) Upon consideration of the arguments advanced along with the pleadings and evidence, oral and documentary, the learned Rent

Controller allowed both the eviction petitions, accepting that the landlord had established his *bonafide* personal need, and directed the tenants to hand over vacant possession of the shops in question within two months.

(12) In their appeals, the tenants again asserted that the landlord had not averred and proved that he was not in occupation of any other building of the same type within the municipal limits and that he had not vacated any such premises. They pointed out that the landlord had not disclosed that there were four shops but had admitted the same during his cross-examination. They reiterated their claim that the landlord had not established the *bonafide* personal need of his son and daughter-in-law. They also alleged that the landlord had failed to prove that his son and daughter-in-law were dependent upon him.

(13) In response, the landlord asserted that the room, which was being called the fourth shop by the tenants, faced a small street and was not suitable for his requirement. He further stated that the property purchased in the name of his wife, towards the rear of the building, was not suitable and that they were not interested in using the same for construction of a showroom as it was not in the main market.

(14) Having considered the matter at length, the Appellate Authority held that the landlord had demonstrated his *bonafide* personal need. As regards the plea of the tenants that sufficient averments had not been made by the landlord as required by law, the Appellate Authority observed that the basic ingredients, in terms of the legal provision, had to be pleaded and proved but in the event there was no such specific pleading but a landlord led evidence to that effect, his failure would not be fatal to the eviction petition, if no prejudice was caused to a tenant. Applying this principle, the Appellate Authority observed that the landlord had shown the fourth shop as a store in the site plan appended to the eviction petitions. Further, he had admitted its existence during his cross-examination while deposing as PW1 and had claimed that he used this shop as a store. The Appellate Authority accordingly held that mere non-pleading of some of the essential ingredients in the eviction petition could not be held against the landlord. The Appellate Authority also held that the tenants had failed to point out any prejudice caused to them by such failure. The Appellate Authority therefore opined that the orders under appeal had to be upheld and dismissed the tenants' appeals.

(15) Mr. Avnish Mittal, learned counsel appearing for Satish

Kumar, the petitioner/tenant in CR No. 2044 of 2020, raised only one issue. According to him, the failure on the part of the landlord to aver and plead essential ingredients as per the legal provision ought to have been construed as fatal to the eviction petition. Learned counsel would contend that the landlord could not have made good the shortfall in this regard by his admissions during cross-examination. He would point out that the landlord did not even come clean during his examination-in-chief itself and it was only during his cross- examination that these facts were elicited from him. Learned counsel would therefore contend that the orders under revision are wholly unsustainable in law.

(16) Mr. Gurjot Singh Sadhrao, learned counsel appearing for the Mukhtiar Singh and Balwinder Singh, the petitioners/tenants in CR No. 2045 of 2020, adopted the arguments of Mr. Avnish Mittal, learned counsel.

(17) On the other hand, Mr. Krishan Singh Dadwal, learned counsel for the respondent/landlord, would contend that sufficient pleadings were there in the eviction petitions and the same were not liable to be rejected on any technical ground. Learned counsel would assert that the fourth shop was clearly shown in Ex. P-2 site plan and, therefore, there was no suppression of fact, as alleged by the tenants.

(18) At the outset, it may be noted that this Court, in exercise of revisional jurisdiction under the Act of 1949, cannot interfere with findings of fact upon re-appreciation of evidence. Consideration or examination of evidence in such revisional jurisdiction is only to find out whether such findings of fact are in accordance with law or whether they suffer from any error of law. If such a finding is perverse or has been arrived at without consideration of material evidence or is based on no evidence or a misreading of the evidence or is grossly erroneous or would result in gross miscarriage of justice, it would be open to correction. This Court would therefore be entitled to satisfy itself as to the correctness or legality or propriety of the decision impugned before it but in exercise of revisional power, this Court is not an appellate authority empowered to re-appreciate or re-assess evidence to come to a different finding [See ***Hindustan Petroleum Corporation Limited*** *versus* ***Dilbahar Singh***[1]. In the above decision, the Supreme Court also noted that the extent of revisional jurisdiction would depend upon the language employed by the statute conferring such jurisdiction. It may be noted that Section 15(5) of the Act of 1949 specifically

[1] 2014 (9) SCC 78 = 2014 (2) RCR (Rent) 210

speaks of this Court satisfying itself about the 'legality' and 'propriety' of the order under revision. In this context, the words 'legality' and 'propriety' were also considered by the Supreme Court in the above case and it was pointed out that the ordinary meaning of the word 'legality' is lawfulness and it would refer to strict adherence to law, prescription, or doctrine; the quality of being legal, while 'propriety' would mean fitness; appropriateness; aptitude; suitability' appropriateness to the circumstances or condition; conformity with requirement; rules or principle, rightness, correctness, justness and accuracy.

(19) This being the scope and ambit of these revisions, it would be apposite to first examine the applicable legal regime under the Act of 1949. This Act was promulgated with the object of restricting the increase of the rent of certain premises situated within the limits of urban areas and the eviction of tenants therefrom. Therefore, by its very intent, it was a pro- tenant legislation. However, the interest of landlords was also sought to be protected by providing the grounds that would enable them to seek eviction of tenants. Section 13 enumerates such grounds. Section 13(1) however made it clear that a tenant shall not be evicted except in accordance with the provisions contained thereunder. Section 13(3) of the Act of 1949, to the extent relevant for the purpose of these revisions, reads thus:

> 'Section 13 (3) (a): A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession
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> (i)in the case of a residential building if –
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> (a) he requires it for his own occupation;
>
> (b) he is not occupying another residential building in the urban area concerned; and
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> (c) he has not vacated such a building without sufficient cause after the commencement of this Act, in the said urban area.
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> (d) ....'

(20) Be it noted that insertion of the word 'residential' in the above legal provision by the Amendment Act of 1956 was held to be invalid and was struck down by the Supreme Court in ***Harbilas Rai***

Bansal and others *versus* ***State of Punjab***[2]**.** The provision is therefore equally applicable to non-residential premises, including shops.

(21) Section 13 (3) (a) (i) plainly provides that a landlord may apply to the Controller for an order of eviction against a tenant if he requires the premises for his own occupation; he is not occupying another like premises in the urban area concerned and had not vacated such premises in the said urban area without sufficient cause, after commencement of the Act of 1949.

(22) The essential requirements mandated by this legal provision fell for consideration before a Full Bench of this Court in ***Banke Ram*** *versus* ***Shrimati Sarasvati Devi.***[3] The Full Bench observed that there can be no doubt that the conditions laid down in sub-clauses (b) and (c) of Section 13(3) (a) (i) of the Act of 1949 are statutory conditions and a landlord is required to prove that he is not occupying any other like building in the urban area concerned and that he had not vacated any such building without sufficient cause. The Full Bench held that if a landlord is to satisfy these essential conditions, he must lay foundation regarding the same in his pleadings so that a respondent-tenant is in a position to refute the same and proper issues are also framed. The Full Bench however made it clear that, when it is held that it is essential for a landlord to plead the ingredients of sub-clauses (b) and (c) in the eviction application, it should not be understood that in the absence of such pleadings, evidence regarding the ingredients envisaged in sub-clauses (b) and (c) cannot be looked into under any circumstances.

(23) Earlier, in ***Attar Singh*** *versus* ***Inder Kumar***[4] the Supreme Court held in the context of Section 13(3) (a) (ii) of the Act of 1949 that a landlord not only has to prove that he required the rented land for his own use but also that he is not in possession of any other rented land and that he had not vacated any rented land without sufficient cause after commencement of the Act.

(24) Reiterating this legal position in his order dated 04.08.2017 passed in ***CR No. 6384 of 2013***, titled ***M/s Ajit Agro System and another*** *versus* ***Krishan Chand***, a learned Judge of this Court opined that if the statutory requirements laid down in the Act of 1949 were not

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[2] 1996 (1) SCC 1

[3] 1977 (1) RCR (Rent) 595 = AIR 1977 Punjab 158

[4] AIR 1967 SC 773 = 1967 PLR 83

satisfied in the pleadings and the landlord had not come to Court with clean hands, inasmuch as he had withheld vital information personal to his knowledge, and the position was ultimately admitted and the truth revealed while facing cross-examination, then the case of such landlord would stand falsified. The learned Judge held that, in such circumstances, the Court would be faced with an admission not pleaded and must lean in favour of the tenant.

(25) More recently, in ***Thakar Dass*** *versus* ***Madan Mohan***[5] a learned Judge of this Court set aside an eviction order on the ground that there was neither a pleading in relation to existence of a third shop nor did it come out in the evidence and, therefore, the landlady had not come to Court with clean hands. The learned Judge pointed out that perusal of Section 13 of the Act of 1949 made it clear that the landlady was required to aver as to what were the properties which were in her occupation and she had failed to do so.

(26) However, in ***Ramesh Kumar Goyal*** *versus* ***Hardayal***[6] a learned Judge of this Court held, on facts, that there was no concealment on the part of the landlord as there was no evidence to indicate that the landlord was the owner of or in possession of other like premises in the concerned urban area. The learned Judge opined that to conclude that it would be sufficient to non-suit the landlord, merely because he had not pleaded that he had not vacated any such premises in the concerned urban area, would be an unacceptable approach. The learned Judge observed that the evidence revealed that the parties were well aware of the controversy and the issues in hand and the landlord had specifically denied in his cross- examination that he was the owner of any other properties.

(27) On similar lines, in ***Ram Paul*** *versus* ***Vijay Kumar and others***[7] a learned Judge of this Court noted that even if the necessary ingredients of Section 13 (3) (a) (i) of the Act of 1949 were not strictly pleaded, the same would not be fatal to the case as both parties knew each other's case and led evidence accordingly. Reliance in this regard was placed upon the judgment of the Supreme Court in ***M/s. Bhatia Cloth House*** *versus* ***Dr. Raj Kumar Gupta***[8] wherein it was observed that ambiguity in pleadings regarding the ingredients set out in Section

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[5] 2018 (4) Law Herald 2971 = 2018 (2) Rent LR 593
[6] 2019 (1) RCR (Rent) 423 = 2019 (2) Law Herald 1195
[7] 2013 (2) RCR (Rent) 439
[8] 2008 (4) RCR (Civil) 250

13 (3) (a) (i) of the Act of 1949, if made good in the evidence, would be sufficient compliance with the statutory requirement.

(28) Earlier, in ***Raj Kumar*** *versus* ***Budha Mal***[9] a learned Judge of this Court relied upon ***'Banke Ram'*** and held that if the parties were fully aware about the ingredients of sub-sections (b) and (c) at the time of leading evidence and both led evidence on such issues, the petition cannot be thrown out merely because the landlord failed to plead the ingredients of sub-sections (b) and (c) in the eviction petition.

(29) In ***Jugal Kishore Ahuja*** *versus* ***Surinder Kaur***[10] referring to 'Banke Ram' and other judgments, a learned Judge of this Court held that the pleadings and evidence have to be seen to ascertain whether the basic ingredients of Section 13(3) of the Act of 1949 had been fulfilled. On facts, the learned Judge found that, in the eviction petition, there was no mention by the landlady that she did not own or possess any other property except for the one in the possession of the tenant and she had not been evicted from or vacated any such property after coming into force of the Act. However, in her examination-in-chief, there were specific averments to this effect. The learned Judge accordingly rejected the contention that the provisions of Section 13(3) of the Act of 1949 had not been complied with.

(30) In ***M/s B.B. Saraf & Company and Another*** *versus* M/s ***Harisons Engineering Works and others***[11], a learned Judge of this Court observed that concealment of fact cannot be held established when the same was fairly admitted in the cross-examination by the landlord. Per contra, in ***Ravinder Sood and another*** *versus* ***Mohan Lal***[12] it was held that the facts brought out in cross-examination cannot enure to the benefit of the landlord

(31) In ***Sat Parkash Chaudhary*** *versus* ***Kewal Krishan Malhotra***[13] a learned Judge of this Court observed that non-pleading of a fact can always be rectified if a relevant objection is taken at the initial stage and that pleadings have to be considered broadly in a rent petition. Taking note of the fact that the tenant had failed to take any

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[9] 2011 (2) RCR (Rent) 60
[10] 2017 (1) RCR (Rent) 131
[11] 2019 (2) RCR (Rent) 543
[12] 2013 (2) RCR (Rent) 91 = 2013 (1) PLR 722
[13] 2011 (1) RCR (Rent) 340

objection and the landlord therein had broadly pleaded his personal necessity and also the fact he had not vacated any premises in the municipal area, the learned Judge held that the flaw was not fatal to the case.

(32) Applying the aforestated legal principles to the cases on hand, it may be noted that the landlord specifically stated in his eviction petitions that he and his family members/ son/daughter-in-law had no business space in their possession and that they had not rented out or vacated such space within the municipal limits/local limits of Nawanshahr Town. Therefore, there were sufficient pleadings, as required by sub-sections (b) and (c) of Section 13(3) (a) (i) of the Act of 1949. Once the landlord made such averments it was enough and it was for the tenants to disprove his claim. The question of the landlord proving that he had no such premises or that he had not vacated such premises did not arise when he claimed that such a situation never existed. The burden of proof in the reverse cannot be expected to be discharged by the landlord and law does not insist upon such an illogical measure of proof. Significantly, it is not the case of the tenants that the landlord or his son or daughter-in-law were in possession of any other commercial space or that they had vacated such space in Nawanshahr without sufficient cause after the commencement of the Act of 1949.

(33) Further, it is an admitted fact that the rear portion of this building stands in the name of the wife of the landlord and does not belong to him. The landlord claimed that the said property is residential in nature and no evidence was let in by the tenants to the contrary. On the other hand, their site plans, Exs.R-1 and R-2, also support this stand of the landlord. The landlord’s failure to mention details of this rear portion of the building therefore has no impact, in terms of the requirements of law. The legal provision only requires a landlord to disclose whether he is in occupation of like premises or had vacated such premises without sufficient cause and no more. That situation did not arise in the present case *vis-à-vis* the rear portion of the building, as it was not commercial in nature. Though the tenants seem to have contended to that effect they failed to lead evidence that a shop was leased out to Prashar General Store in the rear portion of this building. Thus, the landlord’s silence as to the rear portion of this building in his eviction petitions carries no import and has no impact on their maintainability.

(34) As regards the tenants’ plea that there was suppression of

relevant facts by the landlord in relation the fourth shop, it may be noted that Ex. P-2 site plan filed in both eviction petitions by the landlord clearly demonstrated the existence of the so-called fourth shop, but the same was shown as a 'store'. The landlord also disclosed therein that a rolling shutter was installed in this ‘store’, allowing access to it from the street. The dimensions of this ‘store’ were shown as 11' 6” x 9' 9” while the dimensions of the subject shops were shown as 16' 6” x 9' 6”/8' 6” (in the case of Satish Kumar) and 15' x 10' 3”/11’ (in the case of Mukhtiar Singh and Balwinder Singh). No doubt, the landlord did not aver in his eviction petition that this was a ‘shop’ but there was no suppression as to its existence, as Ex. P-2 site plan formed part of the eviction petition. As pointed out in ***Sat Parkash Chaudhary***, pleadings in an eviction petition have to be considered broadly and the documents attached with the petition are deemed to form part and parcel thereof. In his cross-examination, the landlord stated that it was a shop and that he was using it as a store. He also admitted that a separate electricity meter was installed in relation to this shop/store. Thus, it essentially boiled down to nomenclature and not non-disclosure. As the landlord clearly indicated its existence in his eviction petitions, he was justified in clarifying the factual position actually obtaining as to this ‘shop/store’ during his cross-examination. It was not as if the landlord was speaking of totally new facts as the ‘store’ already formed part of his eviction petitions.

(35) The admission of the landlord during cross- examination that it was a ‘shop’ and had a separate electricity meter did not in any way contradict its professed use as a ‘store’ for his business in utensils. Thus, there was no suppression, so to say, of the existence of the so-called fourth shop and, in any event, it is not shown to be adequate for the business expansion proposed by the landlord. Viewed thus, it is clear that the landlord did not even stand to benefit in any manner by withholding information as to its existence.

(36) In effect, this Court finds no suppression of relevant facts by the landlord warranting an inference being drawn that he did not approach the Court with clean hands. At best, the landlord can only be accused of not elaborating sufficiently upon the nature and use of the ‘fourth shop/store’ but by no stretch of imagination can the same be held to be concealment of a material fact, thereby falling foul of proper compliance with the requirements of sub-sections (b) and (c) of Section 13 (3) (a) (i) of the Act of 1949.

(37) The only ground urged by the tenants, the petitioners

in these revisions, therefore fails.

(38) The revisions are accordingly dismissed.

(39) The stay applications, CM No.7339-CII-2020 in CR No.2044 of 2020 and CM No.7348-CII-2020 in CR No.2045 of 2020, shall also stand dismissed.

(40) No order as to costs.

Ritambra Rishi