

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 151 of 2009 (O&M)

Date of decision: 29.04.2015

Nirmala and others

... Petitioners

versus

Jagir Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Gobind Dhanda, Advocate for the petitioners.

Mr. Amit Jain, Advocate for the respondent.

K.Kannan, J.

The petition is at the instance of the tenant who was ordered to be ejected on the plea raised by the landlord that he is in personal need for his own occupation, he having shifted from his native Village Khuda Lahora to the building House No. 182, Sector-8, Panchkula. He had himself occupied two rooms of the house and he was seeking for ejectment of the tenant from one room allowed to him under the demise. The need projected up by the landlord was that one of his sons had a government accommodation at Chandigarh and the accommodation provided was not big enough for him to move along with son. He, therefore, expected the son to go over to the house where he was residing and make it possible for him to be accommodated in the additional room held on rent by the tenant. The landlord had taken also a ground for the non-payment of rent but that obtains no relevance since the finding has become final, when the decision of the Appellate Authority holding that the alleged non-payment of rent cannot be true only by the fact that the tenant could not produce the receipts for proof of payment of rent. The Appellate Authority had observed that the landlord and his son were not issuing receipts, and therefore, the

tenant's contention that he had paid the rent but the landlord was not issuing the receipts must be taken as true. The case falls for consideration therefore only as regards the necessity pleaded by the landlord, where both the Courts have held that such a need was established. The Court was acting on the landlord's version and also found corroboration in the evidence of the daughter-in-law that she and her husband wanted to shift to demised premises to be living with the landlord to take care of him and his wife in their old days.

Learned counsel appearing on behalf of the tenants presents before me certain circumstances to show the improbability of the bonafides of his requirement. The counsel would show that he still had the voter identity card issued from Khuda Lahora Village and the ration card was also retained by him at his native village address till the time when the petition for eviction was filed. He had actually moved to the building and occupied two rooms only two months prior to the filing of the petition which was only an attempt to create evidence, for, his own conduct in retaining the possession at his Lahora village was an expression of what his intentions were, which according to the tenant proved that the landlord had no definite intention to make the residence at Panchkula permanent. He would also state that the contention of the landlord that the Government quarter granted to the son was not convenient because he could not climb stairs to occupy the 2nd floor accommodation which was not acceptable because there was no particular illness which the landlord was known to be suffering from and therefore, there could have been no difficulty for the landlord to move along with his sons to the government accommodation. The counsel would also bring to me an additional fact that the landlord owned another property at Chandigarh where another son was residing and he had died in the year 2006. The landlord's other accommodation, therefore available.

I am not impressed with any of the points urged by the counsel for the modification of the orders of the ejectment of the

Courts below. There can be no compulsion for a father to move to his son's house and if he wanted the son to move along with him instead of the son remaining in government accommodation, I would take that as befitting a normal human attitude of feeling comfortable in his own little hut rather than living ever in a larger government accommodation. If the daughter-in-law had also been examined to speak about such an intention to shift along with her husband, I would take that the best evidence has been placed by the landlord before the Court. I even think it unnecessary to consider whether landlord must prove any illness in his evidence regarding the difficulty to climb the stairs of the 2nd floor. He need not go to son's house which is a government accommodation. Even the contention that yet another son who was living in Chandigarh had died in the year 2006, it cannot change the situation because the legal requirement is the possession of the landlord of another building in the same urban area. Panchkula is a distinct area than Chandigarh. The fact that landlord has yet another property in Chandigarh even it had fallen vacant cannot itself disentitle him to press for eviction of the property where tenant is residing, when the landlord expresses his need in the peculiar circumstances when he is in possession of two other rooms in the same building.

The consideration of the Courts below as regards the bonafides of necessity are on well-rooted reasoning and I would find no scope for intervention in the revision. The orders of eviction are maintained and the civil revision petition is dismissed. The time for eviction is three months.

29.04.2015
kv

(K.KANNAN)
JUDGE