

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

CR No. 3614 of 2010
Date of Decision : 28.7.2015

Sant Lal (deceased) through his LR'sPetitioners

Versus

Sadhu Ram and othersRespondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present : Mr. Anil Kumar Saini, Advocate, for the petitioners

Mr. B.R. Gupta, Advocate, for the respondents

M.M.S. Bedi, J.

This revision petition has been filed against the impugned order dated 25.2.2010, passed by the Appellate Authority reverting the judgment of learned Rent Controller.

The learned Rent Controller had dismissed the application of the respondents/landlord observing that the petitioner/tenant was not liable to be ejected on the ground of non payment of rent as well as personal necessity though other grounds had also been taken up in the ejectment petition.

Learned counsel for the petitioners has vehemently contended that the Appellate Authority has wrongly arrived at a conclusion that the landlord/respondents required the house in dispute for his personal necessity and also for his family members. Besides this, learned counsel for the petitioners has argued that earlier similar applications had been filed for

ejection but these were dismissed.

Learned counsel for the respondents informs that in none of the earlier petitions the plea of bona fide need had been raised or decided.

Learned counsel for the petitioners has raised another argument that the respondents were represented by a counsel namely, Mr. B.B. Aggarwal, Advocate, but he was never authorised to appear on behalf of the respondents and as a matter of fact, there was some other counsel Mr. S.S. Vedpal, Advocate who had actually been engaged. As such, allowing an application, which was argued by a counsel not authorised, deserves to be set aside. He is also questioned the legality of the order passed by the Appellate Authority on the ground that Sadhu Ram landlord had died on 25.2.2010 and as such, the ground of personal necessity had ceased to exist prior to the decision of the appeal by the Appellate Authority.

I have heard learned counsel for the petitioners as well as learned counsel for the respondents and carefully gone through the record.

In none of the earlier applications, filed by the landlord/respondents, the ground of personal necessity had been raised or adjudicated upon. As such, the application filed on the ground of personal necessity was not barred by the principle of res judicata. The ground that Mr. B.B. Aggarwal, Advocate had no authority to appear on behalf of the appellant, at this stage, is not tenable. No objection seems to have been raised before the Appellate Authority regarding the appearance of Mr. B.B. Aggarwal, Advocate, as a counsel. Even if such objection had been raised, it will not, in any manner, nullify the arguments raised by Mr. Aggarwal, who, as an authorised agent, argued the matter.

I have carefully gone through the record and find that the landlord had specifically pleaded and proved that he had family of 15 members as his three sons namely, Ajay, Mahavir and Sumer with their families, had been residing with him. There is no force in the contention of learned counsel for the petitioners that there are two other houses available to the landlord for accommodating the said family. The Appellate Authority has taken into consideration, the statement of landlord as AW 1 to determine the personal necessity. Even otherwise, the necessity of a landlord is to be seen from the point of the landlord. The petitioner/tenant cannot challenge the subjective satisfaction of a landlord selecting to seek his ejectment from the tenanted premises claiming that he requires the said premises for his personal need or his family members.

I do not find any force in the contention raised by learned counsel for the petitioners that with the death of landlord, the continuation of proceedings for ejectment on the ground of personal necessity would be nullified merely because the LRs have not been impleaded.

No ground is made out for interference in the impugned order.

The revision petition is dismissed.

However, in the interest of justice, three months time is granted to the petitioners to hand over the vacant possession to the respondents.

(M.M.S. BEDI)
JUDGE

28.7.2015
Ashwani