

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No.3171 of 2011
Date of decision : 06.08.2015**

Jaswant Kaur

....Petitioner

Versus

Chander Sain

....Respondent

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

Present: Mr. Amit Arora, Advocate
for the petitioner.

None for the respondent.

M.M.S.Bedi, J. (ORAL)

This is landlord's revision petition against the judgment of reversal. The Rent Controller had allowed the ejectment petition filed by the petitioner on the ground of personal necessity holding that the petitioner requires the shop in dispute for his own occupation. The Rent Controller had accepted the plea of the petitioner that the shop in occupation of the tenant-respondent is part of the residential house of the petitioner and the petitioner bona fide requires the same as the area available with her family was inadequate who married her daughter in November, 2000 and her son in November, 2003 and she had no guest room to accommodate them on their frequent visits to the petitioner. In support of the said plea, the petitioner landlady had examined her husband as AW-1.

On appeal filed by the tenant, the Appellate Authority has allowed the appeal by observing that adverse presumption will be drawn against the landlady as she herself did not appear as witness and rather produced Raghbir Singh – her husband as AW-1. The

testimony of AW-1 has also been rejected so far as it pertained to the requirement of the petitioner to use the tenanted premises for use of the guests on the ground that there is one room located on the first floor as such it could not be believed that petitioner is running short of residential accommodation. So far as the need of married son and married daughter is concerned, the Appellate Authority arrived at conclusion that she has sufficient accommodation. The Appellate Authority has also given a finding that as the daughter of the petitioner has married, one family member has gone out of the family and an other family member in the shape of daughter-in-law has joined the family as such her bona fide need was rejected.

I have considered the reasoning adopted by the Appellate Authority.

It appears that the Appellate Authority has set aside the ejectment order on the presumption that with the marriage of the daughter of the petitioner she would not require any additional accommodation for guests room forgetting that the need of the landlady is to be seen from her own point of view. The authority under the Rent Act cannot doubt the personal necessity by adopting presumptive approach. The requirement of the landlady is to be appreciated on the basis of evidence.

In the present case, the husband of the petitioner has appeared as witness to justify the bona fide need and requirement of the additional accommodation for guests. The Appellate Authority has disbelieved the bona fide need of the petitioner on the ground that she has also filed an application for ejectment by another tenant in adjacent shop taking up the ground that the shop was required for

running of her own business. The need regarding said shop is absolutely different from the need of the petitioner regarding the tenanted premises. She is an old lady aged 72 years. Her husband is 74 years of age. A coordinate Bench of this Court had ordered legal assistance to the petitioner on account of the health status and age of the petitioner.

In view of the above discussion, I am of the considered opinion that the Appellate Authority has reversed the finding of the Rent Controller on conjectures and surmises. The order of the Appellate Authority is not sustainable in law. It is accordingly set aside. The order passed by the Rent Controller ejecting respondent is hereby restored. The tenant is, however, given two months time to vacate the premises.

The revision stands allowed in the aforesaid terms.

06.08.2015
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(M.M.S. BEDI)
JUDGE