

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 3262 of 2015 (O&M)
Date of Decision: 09.7.2015.

Vinod Kumar

.....Petitioner

Versus

Vijay Laxmi

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

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

SABINA, J.

Respondent had filed the petition under Section 13 of Haryana Urban (Control of Rent and Eviction) Act, 1973 seeking ejectment of the petitioner from the premises in question. Learned Rent Controller vide order dated 24.3.2014 allowed the ejectment petition. Aggrieved against the said order, petitioner preferred an appeal and the same was dismissed by the Appellate Authority vide judgment dated 3.4.2015. Hence, the present petition by the petitioner-tenant.

Learned counsel for the petitioner has submitted that the respondent had failed to establish that she required the premises in question for her own personal use and occupation. In fact, the relatives of the respondent were residing in Chandigarh. Respondent had never lived in Ambala City. The ejectment had been merely filed to eject the petitioner from the premises in question, The Appellate Authority had dismissed the ejectment

petition filed by the respondent qua the other tenant who was in possession of part of the premises in question. In support of his arguments, learned counsel has placed reliance on '**Jagdish Rai Chandna versus Swaran Dass, 2000(1) R.C.R. (Rent) 373**', wherein it was held as under:-

“6. Reverting back to the merit of the other ground which found favour with the learned Appellant Authority, certain basic facts that transpired cannot be ignored. The respondent-landlord was serving at Delhi and admittedly retired in the year 1983. He continued to live at Delhi and did not care to file the petition for eviction earlier. If he was keen to live with his relatives who are residing at Panipat, he could certainly file the petition immediately. He did not do so. This by itself reflects that the requirement of the respondent was not bona fide. Otherwise also one room was lying vacant in the house at Panipat. But the respondent-landlord were working at Delhi. It is the cumulative effect of all the factors that the Courts has to see if the requirement of the landlord is bona fide or not. The landlord is the best judge of his requirement and ordinarily the court will not interfere. Once it transpired that he is continuously living at Delhi, his sudden desire to live with his kith and kin is not understandable. Therefore, it must follow that in the peculiar facts, the respondent-landlord did not bona fide requires that property. The findings of the Appellate Authority in this regard must be approved.”

Learned counsel has next placed reliance on **Kasturi Lal Handa and another versus Bhajan Singh 1991(2) R.C.R. (Rent) 35'**, wherein it was held as under:-

“After hearing the learned counsel for the parties at length, I find that this petition must succeed as the learned Appellate Authority has not only ignored the material evidence brought on the record but also no cogent and convincing reasons have been given for setting aside the detailed order passed by the learned Rent Controller. The learned Appellate Authority has upset the finding of the learned Rent Controller only on the ground that the tenant in his written statement did not attribute any motive to the landlord for seeking his ejectment on the ground of personal necessity. Admittedly the landlord is residing in Delhi for the last so many years and he continued residing there even after his retirement. His family consists only of two persons, namely, he and his wife and better facilities are available in Delhi as compared to Patiala. Moreover, the accommodation with the landlord at Delhi consists of three rooms on the ground floor and two rooms on the first floor whereas the premises in dispute consist only of two rooms. The evidence clearly shows that the landlord does not require the premises in dispute for his personal necessity. There is no quarrel with the proposition that this Court should not interfere in revisional jurisdiction after the appellate Authority has passed an order of ejectment after after

appreciating the evidence. As already observed the Appellate Authority has not considered the material brought on the record nor has given any cogent reason for taking contrary view from that what was taken by the learned Rent Controller. The scope of Section 15(5) of the Act is not the same as the scope of Section 115 of the Civil Procedure Code. It is wider and not confined to the question of jurisdiction only. Under Section 15(5) of the Act this Court has jurisdiction to examine the records relating to the order under revision and that would clearly justify the examination of the propriety or the legality of the order made by the Appellate Authority as to whether the building was required by the landlord bonafide or not. An order of ejectment cannot be passed merely on the wish, convenience or whim of the landlord. The ground of personal necessity has got to be proved by the landlord before he can claim eviction of the tenant. In the present case the landlord had miserably failed to prove that he bonafide requires the premises in dispute for his own use and occupation. In view of this, the order of the learned Appellate Authority is set aside and that of the learned Rent Controller is restored. The ejectment petition filed by the landlord is dismissed. Parties are left to bear their own costs.”

Respondent had sought ejectment of the petitioner on the ground that the petitioner was in arrears of rent and the respondent required the premises in question for her own use and

occupation. The ejectment of the petitioner was further sought on the ground that the petitioner had raised construction of latrine and bathroom outside the tenanted premises without the permission of the landlord and had, thus, materially impaired the value and utility of the premises in question. The demised premises constitutes a residential house. The petitioner is a tenant under the respondent qua one room on the ground floor. The ejectment petition filed by the respondent was allowed on the ground that she required the premises in question for her own personal use and occupation.

The case of the respondent was that her husband had died on 14.11.2009. Her married daughter was residing at Garshankar. Son of the respondent had died on 13.1.2013. The respondent was working as a Technical Assistant and had retired from service on 30.9.2007. Respondent was residing in Mohali along with her family members but now she wanted to shift to Ambala Cantt. where her relatives were residing. Thus, after the death of her husband and her son, respondent desired to live in Ambala City with her relatives. It has come in the statement of PW-2 that in-laws family of the respondent was residing in Ambala City. It is a settled proposition of law that the landlord is the best judge qua his needs and requirement. The respondent after the death of her husband and son and her retirement from service now wants to reside in Ambala City where her in-laws family is residing. Thus, the need put-forth by the landlady can be said to be genuine.

The Courts below had, thus, rightly ordered the ejectment of the petitioner from the premises in question. The judgments relied upon by the learned counsel for the petitioner fail

to advance the case of the petitioner as they are based on different facts.

No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

**July 09, 2015
Gurpreet**