

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 5205 of 2014

Date of Decision: March 17, 2015

Sunil Kumar

.....Petitioner

Vs.

Gurjit Kaur and ors.

.....Respondents

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

-. -

Present:- Mr. Parvez Chugh, Advocate
for the petitioner.

-. -

M.M.S. BEDI, J.

This is tenant's revision petition against the ejectment order passed by the Rent Controller and Appellate Authority on the ground of personal necessity of the respondent-landlady.

Counsel for the petitioner has argued that the respondent-landlady has not pleaded three ingredients of Section 13 (3) (a) (i) of the East Punjab Urban Rent Restriction Act and that she is owner of six other shops in the same area which will be presumed to have been occupied by her. Counsel has contended that she has not denied in her cross-examination that other shops in the corner in Adarsh Nagar, Malout are owned by her

family members. He has also argued that the respondent-landlady had filed an application for amendment of the ejectment petition at appellate stage seeking to plead the necessary three ingredients but said application was dismissed by the Appellate Authority observing that all the ingredients had been pleaded.

Counsel has inter-alia argued that the onus lies on the land-lady to plead and prove the necessary ingredients. He has also argued that if the amendment is allowed, it relates back to the date of filing of ejectment petition. In support of his contentions, counsel relies on the judgments in **Subhash Vs. Yashpal**, 2014 (1) PLR 506 and **Mistri Piara Lal Vs. Surinder Nath**, 2014 (1) RCR (Rent) 223. It is contended that had the amendment been allowed, the land-lady could be said to have pleaded the ingredients from the inception but on account of application having been dismissed, it will be presumed that the necessary ingredients have neither been pleaded nor proved.

With the assistance of counsel for the petitioner, I have gone through the statements of the witnesses, pleadings and orders of the Rent Controller and Appellate Authority. The objective of the pleadings and proving of necessary three ingredients of Section 13 (3) (a) (i) of Rent Act is to ensure that the need should be established as bonafide need of landlord. In case it is established by tenant that the landlord has vacated some other buildings or has occupied any other specific properties in the same area in his own capacity, the said circumstance would be a factor to doubt the

requirement, being bonafide need. In the present case the tenant petitioner has tried to create a doubt about the bonafide need by raising pleas that other shops are also available with the landlady as owner; But in cross-examination the landlady has clarified that she is a widow co-owning three shops on G.T. Road with other family members. She stated voluntarily that she got the shop in family partition. Said statement was not doubted even in cross-examination by the tenant.

The dismissal of application for amendment of ejectment application will not cause any prejudice to the landlady respondent as the reason for dismissing the application for amendment by Rent Controller was that the ingredients required by law stood already pleaded.

The initial onus to establish bonafide need is on the landlord but when said plea is doubted by tenant for want of establishment of three ingredients, the onus simultaneously lies on the tenant, to prove that need of landlord is not bonafide, or that the landlord has been in occupation of other specific building and he/she has vacated any other building without sufficient cause. The tenant could not even point out if the landlady is in actual possession of any other building or she vacated any such building.

No ground is made out for interference in the ejectment order passed by authorities below on the ground of bonafide need of landlady.

Dismissed. However, six months time is granted to vacate the shop in dispute.

March 17, 2015
sanjay

(M.M.S.BEDI)
JUDGE