

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.5855 of 2014

Date of Decision.10.04.2015

Bhupinder Kumar and others

.....Petitioners

Versus

Jasjit Singh and others

.....Respondents

Present: Mr. Arun Jain, Senior Advocate with
Mr. Deepak Basatia, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The tenant who was ordered to be evicted on the ground of personal necessity of the landlord is the revision petitioner before this Court.

2. Learned Senior Counsel appearing on behalf of the tenant would argue that the motives of the landlord are grossly suspect and would point out to me the fact that he had originally filed a petition for eviction on the ground of subletting, material alteration and certain other grounds on 4.8.1982. The petition was dismissed after full-fledged contest on 14.12.1984. An appeal had been filed which was dismissed on 30.05.1985 and revision to the High Court was also dismissed.

2. The tenant not being satisfied came again with the plea that the demised property was a composite property comprising of land and building with machinery and that it would have been appropriate only to

file a suit and even action for ejectment before the Rent Controller was not a properly instituted action. The suit was dismissed on the ground of lack of jurisdiction but the Court, however, granted relief of mesne profits. An appeal appears to have been filed against the said judgment but the appeal was also dismissed.

3. Learned senior counsel appearing for the petitioner will, therefore, require the whole case to be examined in the context of failed attempts of the landlord to secure ejectment and coming up with the plea that there was no bona fides in landlord's action. The ground of ejectment for personal necessity was stated to be that the landlord was himself unemployed and he required property for setting up his business to make a better living. The senior counsel wanted to point that the landlord was engaged in the sale and purchase of properties and gave evidence through witnesses that there was transactions of sales where the plaintiff had brought about and it was not true that the landlord was unemployed. The Courts below reasoned that a person who claims that he is unemployed need not sit idle loitering in the streets and keeping himself cross-legged. If a person was engaging in smaller activities to make some earning, it ought not to be taken as in any way being contradictory to the plea of the landlord that he was unemployed. I must add an additional reasoning that his own failed attempts for ejectment on the ground of subletting and other grounds in the year 1982 cannot be put out against him for all times in future. The law does not prohibit a person from coming out with expression of his personal necessity as and when occasion arises. Thirty three years is fairly a long period when there could have been so many new circumstances that can

compel a need which could not be existing three decades earlier. The bona fides must be tested on an existing reality of whether the person was expressing merely an oblique motive to take down a tenant by hook or crook. He has made several attempts no doubt but I will not take that to be a cause to excite a suspicion when he makes a ground that the law allows him to take. The two Courts below have considered the matter with reference to the need as expressed and I find it to be wholly factual and does not afford to a tenant a ground for intervention in revision.

4. The orders are maintained and the civil revision is dismissed.

Time for eviction four months.

(K. KANNAN)
JUDGE

April 10, 2015
Pankaj*