

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

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Civil Revision No.2560 of 2016 (O&M)

Date of Decision: August 10, 2016

Smt. Raj Rani and others

...Petitioners

Versus

Pooja Taneja and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Deepak Sharma, Advocate
for the applicants-petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 31.01.2015 passed by the Rent Controller, Ambala, whereby petition under Section 13 of The Haryana Urban (Control of Rent and Eviction) Act, 1973, preferred by the respondent-landlady against the petitioners for eviction of a shop, has been allowed, appeal against which preferred by the petitioners has been dismissed by the Appellate Authority, Ambala, by order dated 06.01.2016.

2. It is the contention of learned counsel for the petitioners that on two grounds, eviction of the tenant was ordered by the Rent Controller, Ambala, i.e. the dilapidated condition of the premises and the personal necessity of the respondent-landlady, however, the Appellate Authority did not endorse the findings with regard to the dilapidated condition of the demised premises and had proceeded to uphold the order passed by the Rent Controller only on the ground of personal necessity of the respondent-landlady. His contention is that the requirement of the respondent-landlady is not a *bona fide* one as according to her own admission in the cross-examination, a beautician's course was done by her in

the year 2000 and that too of one day at Manju Beauty Parlour, Ambala City, and thereafter she had been staying at home and in the year 2009, she has started working with Sai Para Company. He contends that at the time of filing of the eviction petition and thereafter she is well settled in her job and she does not need the premises as is being intended by her and projected for the purpose of running a beauty parlour. Reliance has been placed by the petitioner in support of his contention upon the judgment of the Supreme Court in *Indrasen Jain Versus Rameshwardas 2005(1) R.C.R. (Rent) 227*, to contend that the need of the respondents is not *bona fide* and there is no question of any personal necessity involved in the present petition primarily when there is an apparent gap between doing of a beautician's course and the urge for opening a beauty parlour in the demised shop. He, thus, contends that the findings as recorded by the Courts below with regard to the personal necessity of the respondent-landlady, cannot sustain and deserve to be set aside and the eviction petition preferred by the respondents dismissed.

3. I have considered the submissions made by learned counsel for the petitioners and with his assistance, have gone through the impugned orders.

4. There is no doubt about the fact that the beautician's course and that too for a day was attended by the respondent-landlady in the year 2000 at Manju Beauty Parlour, Ambala City. She has also produced a certificate on record Exhibit P-7 which shows that she did participate in the workshop concerning beautician avocation. It is also not in dispute that the respondent-landlady is a divorcee and under these circumstances, even if

she is working in Sai Para Company, where she is earning something, would not be a ground to assert and project as if there is no *bona fide* requirement on the part of the respondent-landlady. Divorcee, if intends to move on in her life and stand on her own feet, especially when she has a premises available to her which on eviction can be utilised for the said purpose, it cannot be said that it is not a *bona fide* necessity of hers. It is apparent from the evidence which has been brought on record that she does have a know-how as to the working of the beauty parlour and, therefore, it cannot be said that she would not have an inclination to do such an avocation. It is general knowledge and a desire of a person to delve into a field where he/she is well conversant with. It is not a situation where a totally new avocation is being attempted by the respondent-landlady. In the judgment of the Supreme Court in *Indrasen Jain's case (supra)* on which reliance has been placed by the counsel for the petitioners, the case was where the landlord had retired from service in the year 1994 and thereafter purchased a shop in the year 1999. Eviction petition was preferred in the year 2001 for starting the business of books and stationery and he had no knowledge or experience in the field, it is under those circumstances that the Supreme Court had proceeded to hold that the landlord had not been able to show as to how suddenly a need for doing business arose in the year 2001 which led to the returning of a finding that it was not a *bona fide* requirement as it was doubted. Present is not such a case and, therefore, the said judgment is distinguishable on facts and would not be of use to the petitioners.

5. The concurrent findings as recorded by the Courts below being based upon proper appreciation of the pleadings and the evidence brought on record, do not call for any interference in exercise of the revisional jurisdiction of this Court.

6. In view of the above, finding no merit in the present revision petition, the same stands dismissed.

7. In the light of the dismissal of the revision petition, the application for stay i.e. CM No.7410-CII, stands disposed of as infructuous.

August 10, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No