

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

Civil Revision No.6839 of 2016 (O&M)

Date of Decision: October 17, 2016

Ashok Kumar

.....Petitioner

Versus

Mamta Goel

....Respondent

CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Divanshu Jain, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM No.20965-CII of 2016

Application is allowed and exemption from filing certified/typed copies of the impugned orders as well as Annexure P-1 to Annexure P-4 is granted and the same are taken on record subject to just exceptions.

CR No.6839 of 2016 (O&M)

Petitioner has approached this Court, challenging the order of eviction passed by the Rent Controller, Guhla, dated 24.03.2015 whereby the petition preferred by the respondent-landlady under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (for short, "1973 Act"), has been allowed on the ground of personal necessity, appeal against which preferred by the petitioner has been dismissed by the Appellate Authority, Kaithal, vide order dated 17.08.2016.

It is the contention of learned counsel for the petitioner that as per the provisions of Section 13 of 1973 Act, the respondent was mandated to disclose that she had other properties also and that she had sold three shops. That apart, it has been pleaded that the shops, which are five in

number, were required by her and her husband Sh. Deepak Goyal. He, on these grounds, submits that the findings returned by the Courts below cannot sustain and deserves to be set-aside, resulting in dismissal of the rent petition preferred by the respondent.

I have heard the submissions made by learned counsel for the petitioner and with his assistance have gone through the impugned orders but do not find myself in agreement with the contentions as raised by him.

The first contention, which has been raised by counsel for the petitioner, is that the respondent has not disclosed the factum of three shops having been sold after coming into force of 1973 Act as mandated under the provisions of Section 13 of 1973 Act. The said plea cannot be accepted as what has come in the evidence is that one of the shop was sold by her father, who was the original owner and thereafter the other two shops were sold by her mother, who had inherited the property from her father and it is only after the death of her mother that she has inherited the remaining shops. As a matter of fact, the respondent has not sold any property herself and, therefore, it cannot be said that she had not disclosed the factum of having sold the shops as from the day she became the owner of the property, she has actually not sold any property and, therefore, this plea of the petitioner cannot be accepted.

The second contention raised by learned counsel for the petitioner is that the *bona fide* necessity, as has been projected, is primarily qua the shops of which three are required by the respondent for her personal use and occupation for starting her own business of boutique and the remaining shops i.e. two in number for her husband to start his own business.

Another plea, which has been raised by learned counsel for the petitioner is that the respondent is well settled in Patiala after her marriage and is residing with her husband and there is no requirement or necessity with regard to her shifting to Cheeka which is not financially and otherwise a better place than Patiala for business related activities, however, the said plea cannot be accepted as there is no evidence on record indicating that there was any property in possession of the respondent in Patiala which was utilized for the purpose of business. Further, in any case, if the bona fide necessity has been found to be fully justified and two authorities below have returned the findings, there is no evidence on record indicating otherwise to disbelieve the plea as has been raised by the respondent. This again therefore, also does not hold the field.

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

Since the main appeal stands dismissed, *CM No.20966-CII of 2016* has become infructuous.

October 17, 2016

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**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No