

CR No. 7398 of 2016

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 7398 of 2016

Date of Decision: November 07, 2016

Subhash Chand

...Petitioner

Versus

Jagdish Rai

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Anurag Gupta, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (Oral):

Petitioner has approached this Court challenging the order dated 17.08.2016 (Annexure P-1) passed by the Rent Controller, Kaithal, whereby, the second ejectment petition preferred by the petitioner-landlord, under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, has been adjourned *sine die* on the ground that the earlier petition which has been preferred by the petitioner for eviction of the respondent is a subject matter of the rent revision petition pending before the Hon'ble High Court. Another ground for doing so is an undisputed fact that now the eviction is being sought on the ground of the personal necessity of the petitioner-landlord and his son, whereas, in the earlier petition, the plea taken for eviction was the personal necessity of his son only but it is an undisputed position that the family of the petitioner as also his son is joint and being a Hindu Undivided Family, each member of the family has same

interest in the petition and keeping that in view, the order dated 17.08.2016 has been passed by the Rent Controller adjourning the second eviction petition *sine die*.

It is the contention of the learned counsel for the petitioner that the ground for adjourning the proceedings *sine die* on the plea that the family of the petitioner is a Hindu Undivided Family and each member of the family has the same interest, cannot be a ground for passing such an order. In the earlier eviction petition, the plea taken was the personal necessity of the dependent son of the petitioner, whereas, in the present petition, eviction is being sought to be projected as the personal necessity of not only the son but his own as well, therefore, there is distinction which is clearly culled out between the petitions and thus, the case could not have been adjourned *sine die* and therefore, the impugned order dated 17.08.2016 passed by the Rent Controller, cannot sustain and deserves to be set aside.

Having considered the submissions made by the counsel for the petitioner, I am unable to accept the same for the simple reason that it is an admitted fact that the petitioner is a member of a Hindu Undivided Family and further, the interest of the father and the son is common apart from that the plea which had been initially taken for eviction in the first application in which the proceedings are pending before the High Court, the ground was only the personal necessity of the son, whereas, a new ground has been added now by asserting that it is for his own personal necessity also. This has been asserted because of the change in circumstances. The said plea would not be available to the petitioner in the light of the fact that the plea

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as has been taken cannot sustain for the simple reason that a petition for eviction which was preferred by the petitioner and succeeded in both the Courts below is pending before this Court wherein the eviction of the tenant has been stayed by this Court.

In view of the above, the order as passed by the Rent Controller dated 17.08.2016 cannot be said to be unsustainable. It may be added here that the liberty has been granted to the parties while passing the impugned order to file an appropriate application for revival which they can avail, after the decision of the High Court.

In view of the observations made above, the revision petition stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

November 07, 2016
Harish

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No