

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

**Civil Revision No.2550-2003(O&M)
Date of decision : 13.01.2016**

Avtar Singh

..... Petitioner

versus

Gurcharan Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. G.S.Nagra, Advocate for the petitioner.

Mr.Sandeep Sharma, Advocate for the respondent.

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?

AJAY TEWARI, J. (Oral)

This petition has been filed against the order of the Appellate Authority reversing that of the Rent Controller and dismissing the petition for eviction filed by the landlord.

The premises in dispute was earlier owned by Amar Singh who had filed a petition against the respondent on the ground of non-payment of rent. The premises were purchased by the petitioner on 19.08.1996 and three years later he filed an application for amendment to include the ground of personal necessity. In the amended petition he had mentioned that he required the premises for his own use. The Appellate Authority noticed that the petitioner was living in the house of his father-in-

law and held as follows:-

“In view of the above discussion, it can be safely concluded that the landlord does not require the demised premises, bonafide, for his own use and occupation and the findings of the learned Rent Controller, on issue No.2, is accordingly reversed and this issue is accordingly decided against the landlord and in favour of the tenant. Resultantly, the ejectment order passed by the learned Rent Controller, is set aside and the ejectment petition is ordered to be dismissed and the appeal is allowed accordingly and the cross-objections of the landlord, are ordered to be dismissed. In the peculiar circumstances of the case, the parties, are left to bear their own costs. Counsel's fee is assessed at Rs.500/-. Memo of costs be prepared.”

Learned counsel for the petitioner has argued that in our society it is always uncomfortable for a son-in-law to live in the house of his father-in-law and in fact the phrase '*Ghar Jamai*' always has a negative connotation attached to it and it is most reasonable for a person who may be living in the house of his father-in-law due to compulsion, to shift out in his own premises as and when the same becomes available. As per him the petitioner purchased the house in question and, therefore, his desire to shift to his own house from the house of his father-in-law cannot be held to be not bona fide and merely because no notice was ever given to him by his father-in-law could not be taken as a ground for disentitling him from vacating the premises.

Learned counsel for the respondent has defended the judgment of the Appellate Authority. Learned counsel has again emphasised on the judgment of **Ahmed Mustafa v. Suleman and another** reported as 1980(2) RCR(Rent) 95 which was relied upon by the Appellate Authority. In that case this Court held as follows:-

“ The question now is whether the petitioner-landlord in the present case has succeeded in proving his

bonafide requirement of the demised premises. Undoubtedly, this property was purchased by him, but according to the concurrent finding of the two courts below, he along with his family was living in a spacious house belonging to his father, who was living at a long distance away in Bombay for the last 30/40 years and the petitioner was working as his attorney. There is not even an iota of evidence to show that the father had at any time expressed his desire to his son-petitioner to vacate the demised premises or that he wanted the same to be let out to any other person. The petitioner, in fact, appears to be aware of this peculiar position and made a deliberate attempt to conceal the true facts in his averments in the eviction application in as much as he stated that he was living with his family along with his relation and he was under pressure to vacate the same. The name of such a relation was not even disclosed in the petition. During evidence, the case sought to be made was that he with his family was living with Amjad Ali Khan A.W.3, which was only one room tenement and that there were confrontations between the two families. However, on the basis of the evidence the two Courts came to the conclusion that in fact he was living in his father's house, which fact on the part of the petitioner in his petition is a clear indication that he did not have bonafide requirement of the demised premises. In the peculiar circumstances of this case, therefore, it is not possible to hold that he really and genuinely requires the premises in dispute for his own occupation....."

In my opinion the aforesaid judgment is completely inapplicable to the present case because there the landlord was living in the house of his father.

In the circumstances the revision is allowed and the order of the Appellate Authority is set aside and that of the Rent Controller is upheld.

(AJAY TEWARI)
JUDGE

January 13, 2016
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