

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

**Civil Revision No.2123 of 2017 (O&M)
Decided on : 08.05.2017**

Gautam Jain

... Petitioner

Versus

Jasvinder Kalra and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Vishal Aggarwal, Advocate
for the petitioner.

G.S. Sandhawalia, J.

The challenge by the tenant-petitioner is to the concurrent findings of the Courts below, whereby ejectment has been ordered on the ground of bonafide requirement on account of the need of the respondent No.2. The order dated 06.10.2015 passed by the Rent Controller, Ludhiana has been upheld by the Appellate Authority on 09.01.2017.

Counsel for the petitioner has argued that the need was not bonafide and the ejectment order was not justified in the facts and circumstances and was not liable to be upheld.

The premises in question is a shop bearing No.84 situated at Sanjay Gandhi Colony, Sector-32, Tajpur Road, Ludhiana as described in the heading of the eviction petition which was filed on 21.04.2012. It was alleged that there was a rent note dated 27.01.2011 for 11 months @ ₹3,465/- per month and eviction was sought on the ground of non-payment of rent from April, 2011 till November, 2011. The need was set up of the petitioner No.2, who is the son of the original landlord, namely, Kashmiri Lal.

The defence of the petitioner-tenant was that the property was taken on rent in the year 2007 and there was a renewal thereafter and the rent note dated 27.01.2011 was denied and the liability to pay the house tax. The arrears of rent were also denied and it was pleaded that the rent had been paid upto December, 2011 and there was a refusal on behalf of the landlords. The requirement of the bonafide necessity was also denied.

Keeping in view the statement made by two of the respondents, namely, Jasvinder Kalra and Surinder Kalra and also taking into account the statement of the present petitioner, who had examined himself alongwith other witnesses, namely, Narinder Jain and Harban Singh, the Rent Controller decided the issue of non-payment of rent on the ground of eviction against the landlords as not pressed. Regarding the relationship of landlord and tenant, in view of the fact that the rent had been paid regularly and merely because the name of the landlord was not reflected in the official record, it was held that the petitioner could not question the same. Accordingly, eviction was ordered on the ground of bonafide requirement by taking into account the fact that the respondent No.2 was plying a auto rickshaw and he wanted to start his new business of departmental store. The alleged sale of the shop was also rejected on the ground that the certified copy of the sale deeds had not been placed on record and neither anybody had been examined to prove the same.

The Appellate Authority also examined the issue in detail to

notice that the brothers had deposed in favour of the need and the requirement of respondent No.2 Surinder Kalra. In view of the admission regarding the ownership of the father of the respondent-landlords, Kashmiri Lal, it was held that the petitioner as such had not disputed the ownership of Kashmiri Lal, father of the petitioners. It was also noticed that no such issue was framed that there was any dispute regarding the relationship of landlord and tenant.

In such circumstances, it would not lie in the mouth of the counsel for the petitioner now to submit that they were not tenants as such and eviction could not be ordered. The findings, thus, which have been recorded by the authorities below are based on a factual matrix and do not suffer from any procedural infirmity or illegality. The need of the respondent No.2 has been set up who had appeared in the witness-box and deposed about the same and was duly supported by his brother. The respondents being the sons of the Kashmiri Lal on account of his death, have a right of eviction on the grounds of bonafide necessity and requirement for one of them.

Resultantly, it cannot be said that the eviction order suffers from any procedural irregularity, which would warrant interference in the revisional jurisdiction. Accordingly, the present revision petition is dismissed in limine.

MAY 08, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No