

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

C.R. No. 2975 of 2016 (O & M)

Date of decision: 25.05.2017

M/s. Mussadi Lal Banarsi Dass and another

...Petitioner(s)

Versus

Smt. Geeta Devi and another

...Respondent(s)

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

Present: Mr. Ashish Gupta, Advocate,
for the petitioners.

G.S.SANDHAWALIA, J.

The tenant is in revision under Section 15(6) of the Haryana Urban (Control and Eviction) Act, 1973 (in short 'the Act') against the concurrent findings of eviction recorded by the Rent Controller, Rohtak dated 20.07.2015 and upheld by the Appellate Authority on 29.01.2016. Counsel for the petitioner has very fairly pointed out that possession has already been taken from him in execution proceedings.

The eviction was sought by the landlady on the ground that the premises in question which is a shop situated in New Anaj Mandi, Mal Godown Road, Rohtak was required for the purpose of settling her husband who was earlier working as an Iron Broker at Delhi. Similarly, respondent no. 2, who was also 1/3rd owner, was also stated to be needing the said shop as he also wanted to settle his independent business in the suit property. The purchase of the property had been done in the year 1987 in favour of the respondents, who were closely related and respondent no. 2 was the owner and brother-in-law of respondent no. 1. In view of both the

beneficiaries having deposed as PW-1 and PW-3 and in view of the medical record also being on record, the eviction has been ordered by the Rent Controller by noticing that the husband of respondent no. 1 was suffering from ill health and could not travel Delhi on a daily basis. Similarly his brother was also unemployed having resigned from the school where he was working as a Purchase Officer. Resultantly, keeping in view the settled principle as laid down by the Apex Court that it is not for the tenant to dictate the terms to the landlord as to how he has to adjust himself, eviction has been ordered by the Rent Controller.

The Appellate Authority duly considered the relevant precedents on the said principle also and noticed that even PW-4 Dr. Shivani Dua had proved the laboratory reports issued by Dr. Lal Path Laboratories which supported the claim that the husband of respondent no. 1 was suffering from ill health and required the premises for his own bona fide requirement. Merely because some properties had been sold between the years 2000-04 by Sanjay Kumar, it was held that even then it would not as such mean that the bona fide requirement was not there. It is to be noticed that the petition was filed on 30.11.2012 and the sale was at an earlier point of time would not as such bar the landlady for seeking eviction for the need of her husband almost a decade later. The cause of action for bona fide requirement keeps on changing and a family might require a certain premises at a certain point of time and, thus, the eviction which has been directed by the Courts below is based on the necessary pleadings which are in consonance with the provisions of the 1973 Act and on the basis of sufficient material which has come on record. Therefore, in revisional jurisdiction, there is no scope for interference and the present

revision petition is accordingly dismissed in limine.

25.05.2017
shivani

(G.S. SANDHAWALIA
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No