

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

C.R. No. 3043 of 2017 (O & M)

Date of decision: 30.05.2017

Harbans Singh

....Petitioner(s)

Versus

Jagdish Singh

...Respondent(s)

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

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

Mr. Sandeep K. Sharma, Advocate,
for the caveator-respondent.

G.S.SANDHAWALIA, J. (Oral)

The present revision petition is directed against the concurrent findings of the Rent Controller, Mohali dated 06.02.2015. The said order has been upheld in appeal on 17.02.2017 whereby, eviction has been ordered on the grounds of bona fide requirement on account of the need of the grand son and also on the ground of nuisance being created by the petitioner-tenant, who is occupying the premises on the second floor.

On 01.05.2017, counsel for the caveator had pointed out that possession had already been taken from the petitioner. Today, certified copy of the order dated 17.04.2017 passed in execution proceedings has been produced to show that the landlord has taken possession as per the process of Court and the counsel withdrew the execution being fully satisfied.

The said fact is also contested by counsel for the petitioner by saying that he is still in possession and his articles are lying there.

Even otherwise, this Court is of the opinion that there is no scope for interference in the well reasoned orders passed by the Courts below. The Courts have found that the need of the landlord was on account of the fact that the tenant was creating nuisance and was throwing garbage and dirty water from top floor thereby causing great inconvenience and hardship to the tenants on the other floors and not permitting the tenants on the first and second floor to go to the roof of the second floor.

It was the case of the landlord that he was 82 years old and retired in the year 1989 and residing with his two sons at Delhi. His son, daughter-in-law and grandson had shifted to Chandigarh in the year 1993 and were residing on the ground floor in the premises in question. Thereafter in the year 2001, his son had constructed a new house and shifted to H. No. 1046, Sector 70, Mohali. The petitioner remained at his native village and occasionally visited his son and wanted to come and stay and spend his entire life there and wanted to reside in the premises in question alongwith grand son. The grand son Jagdeep Singh had got married on 20.11.2011 and was working in a bank and his wife Tejinder Kaur was also a government servant and they did not enjoy a good relationship with his parents and, therefore, in order to separate him, the premises were required for the use and occupation of grand son and his wife also. The respondent-landlord was to occupy two rooms on ground floor after getting them vacated from one Neeraj Kumar, his relative, who was occupying two rooms on the ground floor whereas, Jagdeep Singh was to be given two rooms on the second floor.

The case was contested on the ground that three storeys had been given to different tenants and the fact of Neeraj Kumar occupying the

premises was admitted but the defence was that he was harassing the tenant one way or the other. In the morning time, he would open all the taps and stop the water to reach the other floors and it was denied that the petitioner-tenant was quarrelsome person or was a big source of nuisance to the other tenants.

In order to prove his case, the landlord examined as many as 3 witnesses including the grand son and Neeraj Kumar.

On the other hand, the tenant examined himself and nobody else and tendered his evidence but he failed to appear for cross examination and his evidence was closed.

In such circumstances, his evidence cannot be taken into consideration at all and, therefore, even the allegations that the other side has not proved his bona fide requirement cannot be accepted. The grand son has appeared and his evidence has been taken into consideration for the bona fide requirement. Similarly, Neeraj Kumar, the relative, also appeared to depose about the nuisance created by the petitioner who has not examined any other independent witness or any other tenant in the building in question.

The factual findings have, thus, been recorded on the need of the landlord which does not require interference in revisional jurisdiction. Accordingly, the present revision petition is dismissed in limine.

30.05.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No