

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 5923 of 2016 (O&M)

Date of decision: 08.12.2017

Shree Sewak Sabha (regd.)

...Appellant

Vs.

Bhushan

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. V.B. Aggarwal, Advocate for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

1. Prayer in this petition is for setting aside the impugned judgment dated 20.05.2016 passed by the learned Rent Controller as well as the order dated 10.05.2016 passed by the learned Appellate Authority under the Haryana Urban (Control of Rent and Eviction) Act, 1973 dismissing the eviction petition. The tenant has won the battle.

2. Once the admitted position is that the landlord is a Society registered under the Haryana Registration and Regular of Societies Act, 2012, then it must speak through resolutions in writing including in the matter of resorting to litigation. Have read the resolution Ex. P-2 passed by the Samiti and as per the copy of the same from the proceedings book, I find that Samiti had outlined the reasons in the Resolution for which it required vacation of the demised premises. The grounds for eviction was confined to i) non-payment of rent, ii) the roof of the demised premises had fallen down leaving it in a dilapidated condition.

The ground of personal use was nowhere mentioned for eviction of the

tenant in the resolution in support of the ejectment petition.

3. However, the ground of personal necessity was taken in the pleadings in the eviction petition filed by the landlord society though not mentioned in the resolution but the rent controller did not cover the ground of personal use. The ingredients of recovery of possession for personal requirement and bona fide need are provided for in Section 13 of The Haryana Urban (Control of Rent & Eviction Act, 1973). Without such pleadings, eviction cannot be claimed or sustained by the rent authorities. There can be two situations; One, when the resolution of juristic person or body only says that an eviction petition be filed against the tenant leaving the rest to the authorized person by resolution to take up in court as advised by counsel or when the society itself specifies the grounds it wants to employ to evict the tenant. Then, grounds must be confined to rent law grounds set out in the resolution and the court would not travel beyond the resolved. The present case falls in the latter position.

4. Though, the Appellate Authority, Karnal vide its order dated 10.05.2016 has not pointedly dealt with bona fide need in the operative/reasoned part of the impugned order, but I think that would not be reason to upset the finding of the rent controller which is in accordance with law that a case for eviction is not made out. Remand of the case on this point, considered at one point of the hearing, would not I believe yield the expected result that the landlord has in mind and I

would not, therefore, accept the argument of the learned counsel for the appellant and to the contrary hold that no interference is called for in the work of the rent controller who has refused to be mislead with the argument of the landlord society holding a defective resolution or for that matter that of the appellate authority in concluding the case in terms of the rent controller.

5. Accordingly, the petition is dismissed.

[RAJIV NARAIN RAINA]
JUDGE

08.12.2017
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Whether speaking/reasoned: Yes
Whether Reportable: No