

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

**Civil Revision No.7723 of 2016 (O&M)
Decided on : 24.04.2017**

Tamanna

... Petitioner

Versus

Kanwaljit Kaur

... Respondent

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

Present : Mr. D.K. Bhatti, Advocate
for the petitioner.

G.S. Sandhawalia, J.

The petitioner-tenant in the present revision petition has raised challenge to the eviction order dated 27.11.2015 passed by the Rent Controller, Jalandhar. Similarly, the order dated 27.09.2016 passed by the Appellate Authority upholding the decision of the Rent Controller is also under challenge.

On 05.04.2017, the following order was passed:-

“Mr. Vinay Puri, Advocate appears on behalf of Mr. D.K. Bhatti, Advocate and submits that he has instructions that in case reasonable time is granted, the petitioner would vacate the premises since the premises are being used for a commercial purpose of running a beauty parlour, therefore, time would be needed to relocate the business. Accordingly, he prays for time till 31.12.2017 to vacate the premises. The eviction has been ordered on the ground of bona fide requirement of the landlady and for the use of her younger son who was doing his Chartered Accountancy course. Both the courts have concurrently held against the petitioner. The above request is thus genuine.

Accordingly, necessary undertaking be filed on or before the

next date of hearing with the requisite condition that the arrears of rent would be cleared by 31.05.2017 and he would continue depositing the rent by the 7th of each month till handing over possession.

To come on 24.04.2017 for filing of necessary affidavit.”

Today, counsel submits that he has no instructions regarding the said aspect and argued the revision on merits. Counsel has submitted that the need was not bonafide and it was only a methodology adopted for eviction on the ground of bonafide requirement of the premises for the need of the son.

It is not disputed that the premises are measuring 132 square feet and are a shop which form part and parcel of House No.E.G. 46, Ladowali Road, Jalandhar and is bounded by three sides by the property of the respondent-landlady, who is owner on the basis of registered gift deed executed in her favour way back on 30.05.2001 and 12 years before filing the petition. The tenancy in question had been created by her father, who had raised the construction. Resultantly, eviction was sought on the ground that there were arrears of rent from January, 2010 @ ₹2,000/- per month and that she alongwith her husband who had retired from the Army as a Colonel on 28.02.2010 and two sons wanted to settle at Jalandhar in the property in question. The shop was also part of the same building and she wanted to make additions and alterations as the building is old.

The tenant defended the ejectment application on the ground that she was not the owner of the disputed premises and the premises had

been taken on rent from S. Bakshish Singh @ ₹500/- per month and ₹1 lakh as security had also been given. She had spent ₹2,50,000/- on the decoration of the shop and the rent was being received by another daughter-Jatinder Kaur till February, 2011 and the registered gift deed was a forged and fabricated document.

Keeping in view the fact that the petitioner examined herself and the fact that her husband had retired from Army on 28.02.2010 and, thereafter, working on contract basis, it was rightly held that the bonafide requirement as such was proved. It is to be noticed that earlier an petition under Section 13-A of the East Punjab Urban Rent Restriction Act, 1949 had been filed, which was withdrawn with liberty to file a fresh one and even a civil suit had been filed by the tenant against the landlady and her husband. It was, accordingly, noticed that the landlady had two sons, who were studying at Panjab University, Chandigarh and she was a housewife and was residing in the house of the brother of the husband. The husband was employed on contract basis as Registrar at Army Institute of Law, Mohali. The younger son had almost completed his Chartered Accountant Course, which was to conclude in January, 2016 and, therefore, the need as such was held to be bonafide. The tenant could not challenge the terms of the gift deed and even otherwise being one of the legal heirs, the co-owner was competent to file the petition.

The issue of rate of rent was held against the landlord that it was only ₹500/- per month and the lack of payment from January, 2010 was held in favour of the landlord. Accordingly, the tender made on

account of the provisional assessment was upheld, while directing ejection.

The findings, thus, which have been recorded do not suffer from any infirmity, as it is a settled principle that there is a bonafide presumption as such regarding the need of the landlord. In the present case as noticed, the father of the landlady was the owner and the need as such was on the requirement of settling down, on account of the superannuation of the husband. The son requiring the premises for doing his Chartered Accountant job and the shop being available and having been constructed long back and situated in the middle of the property and the building being of old construction was requiring reconstruction. Therefore, in such circumstances, bonafide need has rightly been also upheld by the Appellate Authority.

The dependency of the son as such and the need of the property, thus, was well established and keeping in view the judgment of the Apex Court in ***Sarla Ahuja Vs. United India Insurance Company Ltd. 1998(Sup2) Supreme Court Reporter 390, Shiv Sarup Gupta Vs. Dr. Mahesh Chand Gupta 1999(3) Supreme Court Reporter 1260, Joginder Pal Vs. Naval Kishore Behal 2002 (2) PLR 625 and Atma S. Berar Vs. Mukhtiar Singh AIR 2003 SC 624***, it can be safely concluded that the findings which have been recorded by the authorities below do not suffer from any procedural infirmity. The landlady has been able to dispel all doubts regarding the fact that the property as such was genuinely required by her and her family for settling down and, therefore,

the ejectment which had been ordered does not suffer from any legal infirmity, which would warrant interference by this Court under the revisional jurisdiction.

Accordingly, the present revision petition stands dismissed.

APRIL 24, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No