

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Civil Revision No.2104 of 2007 (O&M)  
Date of Order: 08.08.2018

Garib Dass

..Petitioner

Versus

Amrit Kumari (since deceased) through  
her legal representative Parveen Kumari.

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Arora, Advocate,  
for the petitioner.

Mr. Sudhir Pruthi, Advocate,  
for the respondent.

**ANIL KSHETARPAL, J(Oral)**

Tenant-petitioner is in the revision petition against the order passed by the learned Appellate Authority ordering his eviction on the ground of bonafide requirement of the landlady for her widowed daughter, who was going to retire as a government teacher.

The learned Rent Controller dismissed the petition, however, the learned Appellate Authority reversed the judgment and ordered eviction.

Learned Rent Controller dismissed the petition on three grounds:-

- (i) Landlady has not stepped into the witness box;
- (ii) Certain vacant land was available and school could be started, which has not been done;
- (iii) Daughter is a married daughter living in Amritsar, whereas the property is situated at Jalandhar.

Learned Appellate Authority after noticing that all the three reasons given by the learned Rent Controller are erroneous, reversed the judgment. The learned Appellate Authority found that Smt. Amrit Kumari for whom the requirement had been pleaded had stepped into the witness box. It was further found that Smt. Bhagwanti, an old landlady was not able to walk. Learned Appellate Authority further found that the school is required to be constructed on the entire land and the shop of the tenant-petitioner is covering major part of the front of the plot. In the absence of eviction, the school cannot be constructed.

Learned court further found that since Smt. Amrit Kumari, the daughter for whose requirement the eviction was sought has now become widow and the landlady wishes to settle that widowed daughter, no fault can be found in such a like intention.

Learned counsel for the tenant-petitioner submitted that although it was pleaded that Smt. Amrit Kumari is also co-owner, however, no evidence was led. However, he admitted that landlady i.e. Smt. Bhagwanti has died and Smt. Amrit Kumari, the daughter, has been impleaded as legal heir. She is now one of the co-owner of the property.

Learned counsel further submitted that Smt. Amrit Kumari had retired in the year 1998 as a school teacher and she is getting pension not only on her own account but also on account of death of her husband and her son is a doctor. Therefore, she is at a comfortable place in life and hence the requirement is not bonafide.

This court has considered the submissions. It is well settled that the requirement has to be seen from the prism of the landlord/landlady.

It is not in dispute that Smt. Amrit Kumari has long experience of teaching

and has sufficient experience in managing the school. Merely because Smt. Amrit Kumari has sufficient resources at her disposal for surviving, cannot be used as a doubtful circumstance to hold that she does not require the premises. The Courts or the tenant have no jurisdiction to substitute their own opinion in place of the landlord. The jurisdiction of the court is only to examine whether the premises is a bonafide requirement or not. While examining the bonafide intention, the court can examine the evidence available on the file and return a finding on either side.

It may be noticed that the tenant of the adjoining shop has already vacated and only because of the petitioner's occupation, the project for opening a school could not take off.

At this stage, learned counsel for the tenant-petitioner has pointed out that even Smt. Amrit Kumari, daughter of the landlady, has died during the pendency of the revision petition.

On the other hand, learned counsel for the respondent-landlady has pointed out that an affidavit has been filed, pleading the requirement of the daughter and son-in-law of Smt. Amrit Kumari, who are also in the teaching profession. Son-in-law has already retired for the last 1 year and 3 months whereas daughter is retiring in 3 years. The relevant assertions in the affidavit are extracted as under:-

*“5. That the family of the landlady is a family of the teachers. The deponent is M.A.M.Ed. and is working as Lecturer in Govt. Sr. Secondary School, Dakoha, Jalandhar and she is retiring on 31.08.2021 i.e. after three years. Whereas, the husband of the deponent, who has been Lecturer of English in Govt. Sr. Secondary*

*School, Talhan, Jalandhar has already retired on 31.03.2017. The family of the landlord, who wanted the premises for running the coaching center is well qualified. The certificate of retirement of Sh. Ravinder, husband of the deponent and the certificate issued by Govt. Sr. Secondary School, Dakoha, Jalandhar showing the date of retirement of deponent as 31.08.2021 are attached herewith as Annexure R1& R2.”*

It is unfortunate that during the pendency of the eviction proceedings, not only the landlady, even her daughter Smt. Amrit Kumari has died because of delay in disposal of the case. It may be significant to note that no reply to the application has been filed by the tenant-petitioner.

In view of what has been recorded hereinabove, this court does not find any good ground to interfere with the findings of fact arrived at by the learned Appellate Authority.

The revision petition is dismissed.

**August 08, 2018**  
**nt**

**(ANIL KSHETARPAL)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

: Yes/No  
: Yes/No