

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

123

Civil Revision No.1342 of 2017 (O&M)

Date of Decision:-13.08.2018

Hardial Singh

... Petitioner

Versus

Janak Raj and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Rajinder Sharma, Advocate
for the petitioner.

Mr. V.K. Sandhir, Advocate
for the respondent

ANIL KSHETARPAL, J.(Oral)

CM-9130-CII-2017

This is an application filed under Section 151 CPC for exemption from filing certified copies of Annexure A-1 to A-3.

Dismissed as not pressed.

Main Case

Tenant-petitioner is in the revision petition against order passed by appellate authority ordering his eviction on the ground of *bona fide* personal requirement for the son.

Learned Rent Controller dismissed the petition on the ground that necessary ingredients as required, as per East Punjab Urban Rent Restriction Act, 1949, have not been pleaded. Before the appellate authority, application for amendment was filed which was allowed and necessary ingredients were pleaded. After re-appreciating the evidence, learned appellate authority reverse the judgment of the trial Court and ordered

eviction.

Learned counsel for the petitioner has submitted that once there was a defect in the original petition filed, Appellate Authority committed an error in permitting the landlord to fill-up the lacunas in the case. He submitted that such amendment cannot be allowed. He further submitted that son, for whose requirement, eviction has been sought for has appeared in the witness-box and admitted that he is having agency of a Paint Manufacturing Company and is able to earn Rs.40,000/- per month. Hence, he submitted that the son was not dependant on the landlord i.e. the respondent.

This Court has considered the submissions however, find no substance therein. As per East Punjab Rent Restriction Act, 1949, landlord is required to prove a plea of three requirements:

- (i) He requires it for his own occupation which has been interpreted to mean requirement of the family,
- (ii) He is not occupying any other building in the urban area concerned;
- (iii) He has not vacated such a building without sufficient cause after commencement of this Act in the said urban area.

A Full Bench of this Court has held that it is necessary to plead aforesaid requirements. In the present case, landlord failed to prove that fact before the Rent Controller, however, application was filed for amendment of the petition, which was allowed by the appellate authority. It is not in dispute that tenant was given opportunity to file reply and after considering all aspects, appellate authority allowed the application. This Court does not find that such order passed by the appellate authority was erroneous.

Next argument by learned counsel for the petitioner is with regard to admission made by the son that he is having an agency of Paint Manufacturing Company, and, therefore, have sufficient income at his command. Learned counsel for the petitioner was specifically, asked whether it has been proved that son of the landlord was having the alleged agency of Paint Manufacturing Company on the day of filing of the petition i.e. 07.02.2013. Learned counsel fails to draw attention of the Court to any evidence proving that fact. It is not expected that an unemployed youth would keep waiting for adjudication of the eviction proceedings even if such petition remains pending for number of years. As noticed, this petition was filed more than five years ago. The only limited rights are given to the landlord to seek eviction. If a tenant wishes to defeat such right, the tenant is required to prove that landlord is not entitled to right of eviction on the day, the petition was filed. In absence of any evidence that son of the landlord was having agency of a Paint Manufacturing Company, no fact can be found in the order passed by the appellate authority.

Revision dismissed.

13.08.2018

geeta

(ANIL KSHETARPAL)
JUDGE

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No