

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

-.-

Civil revision 2004 of 2018 (O&M)
Date of decision: 03.04.2018

Sheetal alias Bittu

..... Petitioner

Versus

Darshana Devi

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Rajeev Dev Sharma, Advocate
for the petitioner

-.-

Rekha Mittal, J. (Oral)

The unsuccessful tenant has filed the present petition to assail consistent findings recorded by the Courts whereby application for eviction of the petitioner (respondent therein) from the shop situated on main road, integral part of house No. 90 at Mohalla Saingarh, Tehsil Pathankot, by invoking Section 13 of the East Punjab Urban Restriction Act, 1949 was allowed by the Rent Controller, Pathankot on the ground of bona fide personal necessity of the respondent-landlady and findings recorded by the Rent Controller have been affirmed by the Appellate Authority, Pathankot.

Counsel for the petitioner has assailed the impugned orders on different counts. It is argued that the respondent-landlady has retired from MES and is a pensioner. She has raised the plea that meager pension drawn by her is not sufficient to meet her expenses, therefore, she needs the property in question for starting business of fast food in the tenanted shop.

It is argued that except self serving statement of the respondent-landlady, she has not examined a witness from the concerned department with regard to pension drawn by her.

The second submission made by counsel is that the respondent has got no experience or knowledge of doing the business of fast food, therefore, her plea that she intends to start fast food business is not bona fide. In addition, it is argued that the respondent has examined a witness who had stated that he would help the respondent to run business of fast food but as the witness is already working at Mcleodganj, a tourist destination in Himachal Pradesh, there is no reason for him to help the respondent in fast food business at Pathankot.

Another submission made by Counsel is that prior to institution of eviction application in January 2015, the respondent served a legal notice in the year 2014 and in the notice, there is no reference to need of the respondent to have the shop in question for doing any business as the notice pertains to non-payment of rent.

Counsel has also made an attempt to argue that as the respondent is 70 years old and retired from service in 2009, it is difficult to fathom that she needs the property for starting business and has actually projected the need just to seek eviction of the petitioner, a tenant in the property since 1986.

I have heard Counsel for the petitioner and perused the paper book particularly the orders passed by the Courts.

The respondent-landlady appeared in the witness box and stated on oath that she is drawing a meager pension at the rate of

Rs.8,000.00 per month after commutation and the same is not sufficient to meet her needs. If the petitioner wanted to challenge correctness of her testimony, he could well summon a witness from the concerned department to counter testimony of the respondent in this regard. In absence of rebuttal, petitioner has no case to contend that the respondent is drawing more pension.

The respondent examined Sanjeev Janja AW2 to prove that she would be helped by him in business of fast food. Even if the respondent is not having any experience at her command to do the business of fast food, she can well avail of the services of person (s) who would be helping her. Merely because a person does not have experience to do a particular commercial activity, it does not mean that he/she cannot do such a business even with the help of experienced people.

There is no requirement in law to serve a legal notice before initiating proceedings for eviction. The fact that in the legal notice served in the year 2014, respondent-landlady has not made mention of her bona fide personal necessity would be of no consequence. This apart, the Legislature has provided safeguards against misuse of the provisions of Rent Act whereby a landlord cannot let out the evicted property to another tenant for a particular period and in case the landlord wants to create tenancy, he/she has to first offer the property to his previous tenant.

Analyzed from any angle, I do not find an error much less illegality in the consistent findings recorded by the Courts warranting intervention in exercise of limited revisional jurisdiction.

For the foregoing reasons, the petition fails and is accordingly

dismissed *in limine*.

No order as to costs.

(Rekha Mittal)
Judge

03.04.2018
mohan bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No