

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

CR No.2904 of 2015 (O&M)

Date of decision: 03.08.2018

Iqbal Singh

..... Petitioner

Versus

Surinder Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. G.S. Lalli, Advocate
for the petitioner.

Mr. P.S. Khurana, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Landlord-petitioner is in the revision petition against the order passed by the learned Rent Controller, affirmed in first appeal by the Appellate Authority.

In the considered opinion of this Court, the issue which needs determination is:-

“If the landlord is also a tenant under Municipal Committee and expresses his desire to shift to his own shop whether such requirement is only a wish and a desire and not bona fide requirement?”

Both the Courts have heavily relied upon the fact that previously the landlord had created a mortgage in favour of tenant and his suit for mandatory injunction was dismissed and the respondent-tenant was held to be tenant over the premises. Second reason assigned by the Courts below to refuse ejectment is that Municipal Committee has not issued any

notice to the landlord to vacate the tenanted premises which he is occupying as a tenant.

This Court has heard learned counsel for the parties at length.

It is not in dispute that the landlord is doing his business from a tenanted premises owned by the Municipal Committee. The property which is owned by the Municipal Committee, tenants of the Municipal Committee do not have protection of East Punjab Urban Rent Restriction Act, 1949. In these circumstances, the petitioner-landlord filed a petition disclosing that he is in occupation of a shop as a tenant of the Municipal Committee but wishes to occupy his own premises and continue with the business. However, his effort was frustrated by the Courts below on the ground that such wish of the landlord is only a desire and not a bona fide requirement. In the considered opinion of this Court, the approach of both the Courts below was erroneous. The landlord who is also owner is entitled to enjoy his own property rather than continue to occupy a tenanted premises. A landlord cannot be forced to remain tenant although his own premises is available.

Learned counsel for the respondent while replying upon the judgment passed by the Hon'ble Supreme Court in the case of Deena Nath Vs. Pooran Lal, 2001(5) SCC 705 has submitted that there must be requirement by the landlord and not a mere whim or fanciful desire. The aforesaid interpretation given by the Hon'ble Supreme Court is only laying down that bona fide requirement of the landlord must be examined by the Court. However, in the present case, the petitioner-landlord is doing his business. He just wishes to occupy his own premises in place of continuing as a tenant under the Municipal Committee. As noticed earlier, the tenants sitting on the properties owned by the Municipal Committee are not having any protection of the rent laws. In such circumstances, if the landlord has

filed a petition showing his bona fide requirement to shift to his own premises, his bona fide requirement cannot be styled as mere fanciful and whimsical desire.

In view thereof, the judgments passed by the Courts below are set aside.

The tenant is ordered to be evicted and he is granted two months time to hand over the vacant possession of the premises to the landlord.

Revision petition is allowed.

03.08.2018

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No