

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 26 of 2018

Date of Decision: 09.01.2018

Smt. Bimla Devi and another

...Petitioners

VERSUS

Smt. Sonia

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Virender Singh Punia, Advocate
for the petitioners.

SURINDER GUPTA, J.

Petitioners, who are tenants in house bearing No. 421, Gali No. 3, Basant Vihar Kailash-Tikri Road, Karnal, were ordered to be ejected from the demised premises on the ground of non-payment of rent and personal *bona fide* necessity. Petitioners contested claim of respondent denying her title and status of landlady of the disputed house. Learned Rent Controller on the basis of sale deed of the demised premises (Ex. P-1) in favour of respondent held her to be the landlord. While ordering ejectment of petitioners from demised premises, it was observed that petitioners had been in arrears of rent since 2003. Though Rent Controller has observed that the demised premises is also required by the respondent for her personal *bona fide* necessity but in the absence of any issue framed in this regard, observations of learned Rent Controller to this effect are *obiter-dicta*.

Not satisfied, petitioners filed appeal, which was dismissed by the Appellate Authority, Karnal. On the issue of non-payment of rent, learned Appellate Authority observed as follows:-

“.....*Admittedly, the respondents are not paying the rent*

to any person and it is the admission of respondent no. 1 that said Sanjay Devi had met her lastly in the year 2006. The respondents have not disclosed as to whom they are paying the rent after the year 2006, rather, it is apparent on the face of record that the respondents are residing in the demised house without paying any rent to the petitioner for a long time. On the other hand, it is the specific stand of the petitioner and her father that whenever they used to demand rent from the respondents, then, they used to abuse them and start quarreling with them. In this case, Sanjay Devi seems to be an imaginary person, otherwise, it is the admission of respondent no. 1 that one Vijay Kumar was the husband of her alleged landlady Sanjay Devi and even the husband's name of present petitioner namely Sonia is also Vijay Kumar.....”

Learned counsel for petitioners has argued that respondent has sought the ejectment of petitioners on two grounds. Firstly, the non-payment of rent and secondly, personal *bona fide* necessity. No issue was framed regarding the personal *bona fide* necessity of the demised premises by the respondent but both the Court below recorded findings in this regard and ordered ejectment of petitioners on this ground as well. On the issue of non-payment of rent, he has argued that though, petitioners have not been able to produce any evidence regarding payment of rent to respondents or any person authorized by respondent but they have taken the plea that arrears of rent were spent on renovation of the house, as such, plea of landlord (respondent) that petitioners are in arrears of rent also has no merit.

The respondent has sought ejectment of petitioners on the

ground on non-payment of rent and personal *bona fide* necessity. Both the Courts have found that petitioners are in arrears of rent since 2003 and they had also denied the relationship of landlord and tenant with respondent-Sonia. Respondent-Sonia was proved to be owner and landlord of the demised premises and proof of plea of non-payment of rent was sufficient to order ejectment of petitioners. It appears that issue regarding personal *bona fide* necessity of the demised premises was not pressed before learned Rent Controller, as such, any observation in this regard by learned Rent Controller or by learned Appellate Authority are just *obiter-dicta*. A tenant during continuation of his tenancy is under liability to pay the agreed rent. He cannot spend the amount of rent over renovation of the house without consent of the landlord. The required repair and renovation are to be carried out by the landlord. In this case, petitioners are not even admitting respondent-Sonia as their landlord, so the question of spending amount of rent for renovation of the house with permission and consent of landlord does not arise. This shows that petitioners have virtually admitted that they have not paid rent to landlord-Sonia.

Keeping in view above facts, I find no reason to interfere with order passed by learned Rent Controller and learned Appellate Authority ordering ejectment of petitioners due to non-payment of rent of the demised premises.

This revision petition has no merit and the same is dismissed.

January 09, 2018

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No