

In the High Court of Punjab and Haryana at Chandigarh.

CR No. 3088 of 2018 (O&M)

Date of Decision : 11.5.2018

Naresh Kumar

.....*Petitioner*

Versus

Darshan Devi

.....*Respondent*

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Mr. Harkesh Manuja, Advocate, for the petitioner.

GURVINDER SINGH GILL J.

1. Petitioner-tenant assails judgment dated 5.2.2018 passed by the Appellate Authority, Yamuna Nagar whereby appeal filed by respondent-landlord against dismissal of ejectment application by Rent Controller, Yamuna Nagar has been accepted and the petitioner has been ordered to be ejected from the demised premises on ground of personal necessity.
2. The case set up by the respondent-landlady Darshan Devi, aged 86 years, in her petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 is that there exists relationship of landlady and tenant amongst the parties and that the petitioner-tenant was inducted on rent @ ₹ 850/- per month in the demised premises, which is a shop. The landlady sought ejectment on ground of non-payment of rent and also on account of *bona fide* personal necessity of the premises, as the landlady required the same for business requirement of her son Arvind Kumar, who was earlier in timber

business with his brothers but had retired from that business about 15 years back and had joined service with Poly Plastics, Industrial Area, Yamuna Nagar but had now left the said service about 5-6 years back and was presently unemployed. The landlady further asserted that her son had been living with his family in Madhu Colony but since the relations of his wife with her daughter-in-law became strained, therefore, he had started residing in the house of the landlady i.e. with his mother. The landlady further stated therein that her other properties are in the occupation of other members of her family, who are doing business under the name and style of Jindal Garments. It is specifically stated that Arvind Kumar had no other shop in his occupation and has not vacated any other shop within the municipal area of Yamuna Nagar after commencement of the Act and that even the landlady has no other shop to be given to Arvind Kumar for starting business within the municipal limits of Yamuna Nagar.

3. The ejectment application was contested by the tenant who denied the assertion of the landlady about her personal necessity of the premises. A stand was taken that the landlady and her son had a large number of properties both residential and commercial and that landlady's son Arvind is earning lacs through rent from properties.
4. The evidence in support of respective assertions was led by both of the parties. While the learned Rent Controller upon considering the evidence dismissed the petition holding therein that neither there is any default regarding payment of rent nor the applicant had any *bona fide* personal necessity as her son Arvind Kumar cannot be said to be dependent upon the petitioner and in fact had recently transferred his commercial property in the name of his daughter-

in-law. However, the Appellate Authority, Yamunanagar reversed the findings of the Rent Controller as regards the *bona fide* necessity and ordered ejectment of the tenant from the demised premises vide judgment dated 5.2.2018.

5. The learned counsel for the petitioner has assailed the impugned judgment on the ground that the evidence on record clearly shows that the applicant landlady and her family had a large number of properties and that the Ejectment Petition has been filed merely to harass the tenant. The learned counsel has further submitted that the story of strained relations between the wife of Arvind Kumar and her daughter-in-law is negated from the fact that Arvind Kumar had recently transferred some of his properties in the name of his daughter-in-law.
6. I have considered the aforesaid submission and have also perused the impugned judgment. A perusal of the same shows that the learned lower appellate Court has meticulously marshalled the evidence. No doubt, the landlady and her family appear to be very well-off, owning a large number of residential as well as commercial properties. However, there is nothing on record to suggest that the landlady or her son Arvind Kumar own any other vacant shop in the area in question, so as to enable Arvind Kumar to start a business. A perusal of the income tax return Ex.P-4, P-5 and P-6 shows that Arvind Kumar is having income of ₹ 3,52,174 but the said income is only interest income and no part of the same is income from any other business.
7. The fact that son of the landlady is well-off, or is having income from some other sources would not debar him from starting any other business. The fact

that he had earlier transferred some of his properties in the name of his daughter-in-law cannot lead to only one inference that relation with the daughter-in-law is cordial because sometimes even in order to patch up strained relations and to give some kind of security to the daughter-in-law, property may be transferred in the name of daughter-in-law in an attempt to work out some settlement. During the course of arguments, the learned counsel drew attention of this Court to Annexure P-2, P-3 and P-4 annexed with this petition which are extracts from House Tax Assessment Register to contend that a large number of properties mentioned therein were owned by family of the landlady including her son Arvind Kumar but a perusal of the same shows that properties in the name of Arvind Kumar are residential properties. The contention of the landlady that her son had started residing with her consequent upon strained relations between his wife and his daughter-in-law is also supported by ration card Ex.P-3. It will not be out of place to mention that the property, which is stated to have been transferred, by Arvind Kumar to his daughter-in-law is situated in a different location i.e. Madhu Colony whereas the demised property is at the main road i.e. on Jagadhri road. In any case, even if the landlord has two or more than two options, it is the landlord who is the best judge of his requirement and who can choose amongst his properties from where he wishes to start the business. It is the landlord, who may choose any such property to the exclusion of others depending upon the factors ideally situated for business requirements.

8. I do not find that there is any misreading of evidence by the appellate Court so as to warrant interference in any of the findings. Finding no infirmity in the

impugned judgment, the same is upheld. There is no merit in the revision petition and the same is hereby dismissed.

(Gurvinder Singh Gill)
Judge

11.5.2018
Kamal

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