

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

**\* \* \* \* \***

**Civil Revision No. 3349 of 2018 (O&M)**

Date of decision : May 18, 2018

**\* \* \* \* \***

Satnam Singh (deceased ) through L.Rs

.....Petitioners

Versus

Shimla Devi and another

.....Respondents

**\* \* \* \* \***

**BEFORE: HON'BLE MS. JUSTICE RITU BAHRI**

**\* \* \* \* \***

Present: Mr. Ranjan Lakhanpal, Advocate for the petitioners.

**\* \* \* \* \***

**RITU BAHRI, J.**

Petitioners/tenants have come up in the present revision petition against the order dated 15.1.2018 passed by the Appellate Authority, Patiala whereby an appeal against the order dated 04.07.2017 passed by the Rent Controller, Patiala was allowed on the ground of personal necessity. The tenants were directed to hand over the vacant physical possession of the shop in dispute to the respondent/landlady.

Briefly stated, the facts of the case are that Shimla Devi, aged about 80 years filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act seeking eviction of the tenants from the shop in dispute on the ground of material alterations, sub letting, personal necessity and arrears of rent. Satnam Singh took the shop in question on rent in July

1971 from the husband of the petitioner i.e late Sh. Ram Pal. It was averred that Satnam Singh did not pay the rent as per rent deed / agreement. Respondent no.1 sublet the shop in dispute to respondent no.2. In connivance with each other, they had done major alterations in the shop. It was further averred that Shimla Devi (landlady) had no place to live and she is living only at the mercy of her sons. On account of family misunderstandings, she wished to live separately. After demolishing the property, she wanted to build a house so that she could live there peacefully.

After hearing the counsel for the parties and going through the evidence on record, Rent Controller, Patiala held that the petition was nothing but an attempt aimed at seeking the ouster of the tenants from the shop in question. Shimla Devi miserably failed to prove her bona fide personal necessity and any material alteration alleged to have been made by the tenants. Moreover, she failed to prove that the tenants had sublet this shop to respondent no.2. Resultantly, the petition was dismissed by the Rent Controller, Patiala.

Aggrieved by the judgment dated 4.7.2017 passed by the Rent Controller, Patiala, Shimla Devi filed appeal before the appellate Authority, Patiala.

After giving thoughtful consideration to the rival contentions of the parties and going through the evidence placed on record, the lower Appellate Court reversed the findings of the Rent Controller on the issue of ground of personal necessity. It was held that even if the landlady was receiving the family pension of her late husband who was working in the Excise and Taxation Department as Assistant, it would only show that she

was independent and hence if she wants to live separately after demolishing the shop and constructing the house, the Court has to presume the correctness of the said version. The tenants had led no evidence to show that the necessity of the landlady was mala fide. The tenants had led evidence by examining Satbir Kaur as RW-1 and Nirmal Singh Bedi as RW-2. The landlady could not be non suited only on the basis of their oral statements to the effect that the landlady was 84 years of age and on account of her ill health, the ground of her personal necessity is not to be accepted. Lower Appellate Court placed reliance on the judgment in the case of *Santokh Singh vs. Smt. Gian Kaur 2009 (2) RCR (Rent) 97 (P&H)*, wherein it has been observed that because of old age, one is disqualified from self respect and dignity cannot be accepted. Old age cannot be construed to be age of dependency. It is not necessary that one as old human being, should remain at the mercy of son and daughter-in-law. Old age is not a liability. In the evening of life, one need to have peaceful days so that one can live away from mundane affairs and can spend his time the way one need to spend. Hence, in that case personal necessity of the landlady Gian Kaur was held to be genuine.

Lower appellate Court observed that the landlady is getting pension of her late husband who was working in the Excise and Taxation Department as Assistant, hence she can live peacefully. She had got the shop in dispute by way of partition and wants to construct a new house and stay with dignity and moreover, it is not open to the tenant to question the bona fide requirement of the landlady and the tenant cannot even dictate the terms to the landlady. She is the best judge of her requirements. Hence, the appeal was allowed.

Heard counsel for the parties and gone through the records of the case. Counsel for the tenants has not been able to cite any judgment on the point that on account of old age, the ground of personal necessity of landlady has to be discarded. There is no illegality or infirmity in the judgment passed by the appellate authority that requires interference of this Court.

In view of all that has been discussed above, the present revision petition is dismissed.

May 18, 2018  
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( RITU BAHRI )  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |