

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 6338 of 2015 (O&M)

Date of Decision: 27.11.2018

Fateh Chand

...Petitioner

VERSUS

Ashok Kumar

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. J.S. Saneta, Advocate
for the petitioner.

Mr. Kulwant Singh, Advocate for
Mr. Kartik Gupta, Advocate
for the respondent.

SURINDER GUPTA, J.

This revision has been filed by Fateh Chand, who had taken the shop situated in Malka Mohalla, Karnal, which is part of House No. G-698 on rent from respondent-Ashok Kumar. Ejectment of the petitioner was sought on the ground of non-payment of rent; personal *bona fide* necessity of the respondent for the shop to start his business; and dilapidated condition of the same.

2. Grounds of non-payment of rent and seeking ejectment of the petitioner due to dilapidated condition of the building were discarded by the Courts below as the rent was tendered and the evidence produced by the respondent to prove the condition of the building was found deficient to prove that it has become unfit and unsafe for human habitation.

3. Learned Rent Controller had also discarded the plea of respondent that he required the demised premises to start his business with the observation that the respondent is a retired government servant, getting

pension and settled at Panipat with his family, where he is involved in the business of fertilizers. It was observed that he wanted ejectment of the revision-petitioner in order to sell the suit property as a year prior to filing of the petition rent of the demised premises was enhanced to ₹325/- per month. There is other tenant on the ground floor and the respondent has not filed any ejectment petition against him.

4. On appeal, learned Appellate Authority reversed the findings of learned Rent Controller on the issue of *bona fide* need of demised premises with the observation that the respondent has categorically stated that due to dispute between his wife and daughter-in-law he alongwith his wife wants to shift to Karnal, where his relatives are residing. It also took note of plea of landlord/respondent that he intends to demolish the house and the shop in question to reconstruct the same for his living and in order to earn his livelihood, he intends to start business in the shop in question. He has also alleged that the petitioner is having his own shop opposite the shop in question, where he is running the business of 'Atta Chakki' in the name and style of Chauhan Flour Mill.

5. Learned counsel for the petitioner has argued that the revision-petitioner owns no other shop in Karnal. Respondent is living in Panipat, where he is having business with his sons. He had also purchased a plot there, as such, need of the landlord-respondent, who is an old man, to shift to Karnal cannot be termed as *bona fide*. In support of his contention, learned counsel for the petitioner has relied on observations of this Court in cases of Jiya Ram vs. Purshotam Dass, 1984 (2) RCR (Rent) 411 and Shankar Lal vs. Madan Lal and others, 2011 (1) RCR (Rent) 139.

6. Learned counsel for the respondent has argued that the

respondent is a retired government employee. He is presently living with his sons at Panipat. Business of fertilizer at Panipat is being looked after by his sons and the plot of 255 sq. yards was also purchased by son of the respondent. In his old age, the respondent wants to have a peaceful life and to avoid family dispute due to bickering between his wife and daughter-in-law he had decided to shift to Karnal, where his all the relatives including his sisters are living and there is no reason to doubt intention of the landlord-respondent. In support of his contention, learned counsel for the respondent has relied on observations of this Court in cases of **Pawan Khanna vs. Raj Rani, 2014 (2) LAR 124**, **Navsher Singh Nain vs. Jai Kiran Walia and others, 2014 (54) RCR (Civil) 135**, **Harbir Singh Sekhon @ Mani Sekhon vs. Satinder Singh Bhatia and another, 2014 (1) RCR (Rent) 44**, **Vikas Chatrath vs. Salochana Devi, 2014 (3) RCR (Civil) 78** and **Sat Parkash Chaudhary vs. Kewal Krishan Malhotra, 2011 (2) RCR (Civil) 828**.

7. Learned Rent Controller while dismissing the petition has concluded that the respondent intends to get the shop in question vacated with a view to sell the building. Above findings are based on no evidence on record. The fact that a year before filing of ejectment petition rate of rent was enhanced to ₹325/- per month in no manner creates any doubt about the *bona fide* need of the petitioner. It is quite possible that landlord-respondent was not requiring the shop at that point of time and it was at later stage that he planned to shift to Karnal. Learned Appellate Authority has looked into these aspects and has committed no error while observing that the landlord-respondent is the best judge qua his needs and the tenant cannot dictate terms to the landlord in this regard.

8. In case of **Navsher Singh Nain (supra)**, a coordinate Bench of this Court while discussing the *bona fide* need of the petitioner has observed as follows:-

“4.The learned Appellate Authority has categorically held that the petitioner could not question the need of the landlady to shift from Delhi to Chandigarh. It is for the landlady to decide as to whether she wants to continue residing at Delhi or wants to shift to Chandigarh. It is the settled proposition of law that the landlord is the best judge qua his needs and the tenant cannot dictate terms to the landlord.....”

9. In case of **Harbir Singh Sekhon @ Mani Sekhon (supra)**, while discussing the *bona fide* need of the petitioner it was observed as follows:-

“8.A perusal of the paper book reveals that the petitioner(tenant) had admitted in his cross examination that the respondent no.1(landlord) is employed at Punjab & Sind Bank, Delhi branch and is a native of Patiala. It is also admitted fact that all the relatives of the respondent no.1 landlord are residents of Patiala and further he had also admitted that there is no other residential premises in Patiala or elsewhere except the present premises which is under the ownership of the respondents(landlords). Thus, it stands admitted by the petitioner(tenant) that the premises in dispute is factually the only residential premises owned by the respondents(landlords). In these circumstances, if respondent no.1(landlord) intends to come back and reside at Patiala which is his native town and settle down for the remaining years of his life, the court cannot doubt his intention, as it seems quite natural for a person to come back and reside at a place where his own relatives are staying and spend the remaining years

of his life among them. Hence, the necessity as projected in the ejectment application by the respondent no.1 landlord cannot be doubted at all and the same has to be held as a bona fide one”

10. Similar observations were also made in cases of **Vikas Chatrath (supra)** and **Sat Parkash Chaudhary (supra)**.

11. The citations referred by learned counsel for the petitioner are not helpful to the petitioner as in case of **Jiya Ram (supra)**, the dispute pertained to a residential house and it was observed that the accommodation already in possession of the landlord-respondent was sufficient for his requirement while in case of **Shankar Lal (supra)**, needs were projected for the business of son of the landlord, which could not be proved.

12. In view of my above discussion, I find that the findings recorded by learned Appellate Authority that the landlord-respondent has been able to prove his *bona fide* need for the shop in question suffers from no legal or factual infirmity, calling for any interference in this petition, which has no merit.

Dismissed.

November 27, 2018

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No