

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-6037-2018 (O&M)
Date of Decision: 11.09.2018

M/s Devi Dass Nanak Chand

--Petitioner

Versus

Smt. Chander Kanta & others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Veneet Sharma, Advocate for the petitioner.

TEJINDER SINGH DHINDSA.J (Oral)

Tenant is in revision against the concurrent eviction orders passed by the authorities below for the demised premises on the ground of bonafide personal necessity vide order dated 30.1.2015 passed by the Rent Controller, Amritsar and findings having been affirmed by the learned Appellate Authority, Amritsar vide order dated 10.4.2017.

Briefly it may be noticed that the landlords (respondents herein) filed an application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of the tenant (petitioner herein) from the demised premises situated at Bazar Bikanerian, Amritsar and the same was allowed vide order dated 30.1.2015 passed by the Rent Controller, Amritsar on the ground of non-payment of rent and bonafide personal necessity. However, the plea raised by the landlords seeking ejectment of the tenant on the ground of subletting of the demised premises was rejected. Consequently, two appeals arose from the order dated 30.1.2015 passed by the Rent Controller, Amritsar. One appeal was at the hands of the tenant/petitioner assailing the order of ejectment. The other was a cross appeal at the hands of the landlords/respondents assailing the findings recorded by the Rent Controller, Amritsar and whereby the ejectment on the

ground of subletting of the demised premisses had not found favour.

Both the appeals stand adjudicated upon vide common order dated 10.4.2017 passed by the learned Appellate Authority, Amritsar and the same stand dismissed.

Mr. Veneet Sharma, learned counsel representing the tenant has raised a solitary submission that the Rent Controller having taken a view that there exists relationship of landlords and tenant in between the parties, it was imperative for the Rent Controller to have assessed provisional rent and opportunity to be granted for tendering such rent. No other point had been urged.

Having heard counsel for the petitioner at length and having perused the case paper book, I am of the considered view that there is no merit in the instant petition and the same deserves to be dismissed.

Concededly, ejectment had been sought by the landlords on three grounds i.e. (i) non-payment of rent (ii) subletting of the demised premises and (iii) bonafide personal necessity. In so far as the ground of subletting is concerned, a concurrent finding has been recorded by the courts below against the landlords. Undoubtedly, the Rent Controller, Amritsar had directed ejectment not only on the ground of bonafide personal necessity but on the ground of non-payment of rent as well.

The learned Appellate Authority, Amritsar has affirmed the findings of the Rent Controller with regard to ejectment of the tenant/petitioner on the ground of bonafide personal necessity by adopting the following reasoning:-

“12. Now, coming to the ground of bonafide self need taken by the applicants for ejectment of the respondents. As per case of the applicants, applicant no.2 requires the

*demised premises for running his own business of sale and purchase of cloth. Applicant No.2 is running such business in a rented shop near Goenka Market. Although it is the case of the respondent no.1 that apart from the demised shop, the applicants are also having other shops and rooms in the same building in their possession besides the other property and the applicant no.2 could run his business from such shops/rooms and as such, their need is not bonafide, but then it is settled law that landlord is the best judge of his needs and the tenant cannot dictate guide or even advise the landlord to fulfil his needs in any other way. It has been so held by Hon'ble Punjab & Haryana High Court in case **Gagan Traders Versus Jaspreet Singh and others, 2010(2) Rent Control Reporter, 385**, that landlord is best judge of his need and tenant cannot dictate to him whether his need is bonafide or whether the tenanted premisses is sufficient to meet his need or not. Similarly, it has been held by our own Hon'ble High Court in case **Madho Ram Garg Versus Baldev Singh Bath & Anr., 2008(3) Civil Court Cases, 551**, that it is not part of court's duty to examine whether the business to be set up would be successful or not in the tenanted premises, and the choice of premises, the nature or the extent thereof, rest solely with the landlord. In **M/s Satpal Vijay Kumar Versus Sushil Kumar, 2011(1), Rent Control Reporter, 160**, by Hon'ble Punjab & Haryana High Court, it was observed that when eviction is sought on the ground of bonafide need, the Rent Controller shall not proceed on the assumption that requirement is not bonafide and if landlord states that he needs the demised shop for establishment of new business or to extend the business, his need should always be presumed as correct and genuine. In **M.L. Prabhakar Versus Rajiv Singal, AIR 2001 Supreme Court, 522**, Hon'ble Supreme Court observed that the suitability of alternative accommodation has to be seen from the convenience of the landlord and his family members and on the basis of the totality of the circumstances including their*

profession, vocation, style of living, habits and background. There is nothing on record to disbelieve the version of the applicants or to show that they do not have any bonafide requirement of the shop in question.”

Such reasoning and findings recorded by the learned Appellate Authority, Amritsar are not being put to question by counsel representing the petitioner/tenant.

In view thereof the submission with regard to provisional rent having not been assessed and opportunity having not been given to tender the rent for the demised premises, would be of no consequence.

Ejectment of the petitioner/tenant on the ground of bonafide personal necessity would hold good.

No merit, petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

11.09.2018

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No