

In the High Court of Punjab and Haryana at Chandigarh

CR No. 672 of 2015(O&M)

Date of Decision: 19.2.2018

Pawan Kumar

---Petitioner

versus

Ramji Dass Arora

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ramesh Malik, Advocate
for the petitioner

Mr. Mukesh Verma, Advocate,
for the respondent

Rekha Mittal, J.

Pawan Kumar, tenant has directed challenge against order dated 21.11.2014 passed by the appellate authority under the Haryana Urban (Control of Rent and Eviction) Act, 1973 (in short “the Act”) whereby appeal preferred by Ramji Dass, respondent/landlord was allowed, order dated 13.2.2014 passed by the Rent Controller, Rohtak was set aside and the application filed by the respondent/landlord for eviction of the petitioner from the demised premises i.e. three corners shop bearing No. 459/28 (part) situated at Model town, D-Park, Rohtak has been allowed on the ground of bona fide personal necessity of the respondent/landlord.

Counsel for the petitioner has submitted that initially, Jit Singh father of the petitioner had taken the shop in question on rent in the year 1994. After death of Jit Singh, petitioner is in occupation of the tenancy premises since 2000. He has challenged eviction order by raising two fold

contention. It is argued that respondent Ramji Dass Arora is a pensioner and has sufficient income of his own pension as well as pension of his wife (since deceased) who was working as a teacher, therefore, plea of the respondent that the demised premises is required for re-constructing the entire shop including the tenancy premises and starting of business by his daughter-in-law to augment family income is misconceived.

Another submission made by counsel is that the petitioner is in possession of the property in question measuring few square feet for the past about 25 years and in case, the respondent is successful in getting the shop vacated, petitioner and his family would lose their only source of income.

Counsel for the respondent/landlord has supported the order passed by the appellate authority with the submission that the appellate authority has appreciated need of the respondent in right perspective by relying upon various judgments that find reference in para 20 onwards to uphold plea of the respondent that the tenancy premises is required for Vandana Arora wife of Sahil Arora who is MBA qualified and is daughter in law of the respondent. It is further argued that total area of the shop including the portion in possession of the respondent is approximately 10" x 10", therefore, plea raised by the respondent to demolish the entire area to convert it into a showroom for business of garments/cosmetics to be started by his daughter-in-law cannot be looked with an eye of suspicion. In addition, it is argued that the respondent is physically handicapped and dependent upon his son and daughter-in-law. In evening of his life he wants to see that his children are well settled before he departs from this world.

I have heard counsel for the parties, perused the paper book particularly the orders passed by the Rent Controller and the Appellate Authority.

Counsel for the petitioner has not disputed the ratio laid down in various authorities, taken note of by the appellant authority. There cannot be any dispute about the settled position in law that need of the landlord for a non-residential premises is to be judged from his view point and should be accepted if otherwise seems to be genuine and bona fide. Neither the tenant nor the Rent Controller can sit over judgment of the landlord for his/her need.

In the case at hand, as per plea of the respondent/landlord, he requires the shop in question for his daughter-in-law who is MBA qualified. The respondent has planned to demolish the total shop including the bigger portion in occupation of the respondent and re-construct a shop of reasonable size where the daughter-in-law can run a showroom of ladies accessories and garments. To substantiate plea raised by the respondent, Vandana Arora and Sahil Arora appeared in the witness box and were cross examined at length. Counsel for the petitioner has not disputed that Vandana Arora is an MBA which fact is otherwise evidenced by documents produced on record. She is not working at present. Counsel for the petitioner has failed to point out any materials brought forth in cross examination of Vandana Arora and Sahil Arora to create a slightest doubt with regard to bone fide of the respondent-landlord. He has not disputed that the respondent is more than 80 years old and physically impaired to the extent of 100%. As the respondent needs the premises in question for converting the entire shop into a showroom to be used by his daughter-in-

law for running business of ladies accessories and garments, it is difficult to doubt bona fide need projected by the respondent. It has been proved on record that in the area where the property in question is situated, many other showrooms are there wherein business of ladies accessories and garments is being carried out. In this view of the matter, findings recorded by the appellate authority that need of the respondent is genuine and bona fide cannot be faulted with.

Counsel for the petitioner has raised an issue that the respondent has sufficient income of pension received by him. The petitioner has failed to bring any such materials on record that income received by the respondent is a good source of money for the family. This apart, even if the respondent is getting pension running into several thousands, it cannot stand in the way of a daughter-in-law of the family to start her business in the property in question. Even otherwise, the Rent Act creates safeguards against the landlord misusing the provisions of the act because the landlord after eviction of his tenant cannot let out the property to another tenant for a stipulated period. If he wants to let out the property, he has to first offer the property to his old tenant. Analyzed from any angle, I do not find an error much less illegality in the impugned order warranting intervention.

To be fair to the petitioner, it is argued that the petitioner and his family would be deprived of their livelihood in case the eviction order is affirmed. It may be true that the petitioner may find it hard to re-settle himself but the same is not a ground to deny relief in favour of the respondent. Even otherwise, this contention of the petitioner is of inconsequence because as soon as the landlord is successful in proving

bona fide personal necessity, eviction order has to follow unless there is justifiable ground to deny.

No other point has been raised.

For the foregoing reasons, the petition fails and is accordingly dismissed leaving the parties to bear their own costs.

(Rekha Mittal)
Judge

19.2.2018

PARAMJIT

Whether speaking/reasoned : Yes/

Whether reportable : Yes/No