

In the High Court of Punjab and Haryana at Chandigarh

CR No. 6543 of 2018(O&M)

Date of Decision:10.10.2018

Reema Gupta

---Petitioner

vs.

Balinder

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Ms. Divya Sharma, Advocate
Amicus curiae

Rekha Mittal, J.

The present petition directs challenge against concurrent findings of fact whereby the petitioner is ordered to be evicted from tenancy premises i.e. shop measuring 9 x 25 square feet situated at R.K.Puram, Karnal under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (in short “the Act”) on the ground that the demised premises is required by the respondent for personal necessity of his son namely Deepak who wants to start a general store in the shop in question, purchased by the respondent to settle Deepak.

Counsel for the petitioner has assailed the impugned orders dated 25.2.2015 passed by the Rent Controller, Karnal and dated 29.5.2018

by the Appellate Authority, Karnal on few counts. The first submission made by counsel is that tenancy in favour of the petitioner was created by previous landlords/owners namely Smt. Dhan Kaur wife of Sh. Ishwar Singh and Sumitra Devi wife of Sh. Megh Singh at a monthly rent of Rs. 800/-. The petitioner is doing business in the name of Radhika Jewellers (artificial jewellery) in the said shop. Later, the rent was increased to Rs. 1800/- per month. The previous owner sold the shop in favour of Sumitra Devi wife of Megh Singh and Dhan Kaur wife of Ishwar Singh and later they sold the shop to respondent vide sale deed dated 18.12.2012. It is argued that the respondent purchased the shop knowing fully well that the same is occupied by a tenant, which creates dent in his plea that he needs the shop for bona fide need of his son Deepak.

Another submission made by counsel is that the respondent is resident of village Didwara, Tehsil Safidon District Jind but the shop in question is situated at Karnal, therefore, possibility of Deepak to start business at Karnal is bleak. In addition, it is argued that before purchase of suit shop by the respondent, litigation was pending between the petitioner and her previous landlords and there was no reason for the respondent to purchase a property under litigation if Deepak had a genuine need to start business at Karnal. It has further been argued that there are many other shops available in Karnal and the very fact that the respondent opted to buy shop under litigation makes it evident that need of the respondent is not bona fide but the same is hollow, fanciful and whimsical desire to evict the tenant (petitioner herein) who is earning livelihood for her two children.

I have heard counsel for the petitioner, perused the paper book

particularly the orders impugned.

The respondent and Deepak appeared in the witness box to establish their plea that the shop in question is required by Deepak to start business of general store in the shop. Deepak in his cross examination would state that at present, he is doing business of property dealer with his uncle at Karnal but needs the shop in question for settling independently in the business of general store. There is nothing on record suggestive of the fact that the respondent or his son are in possession of any non-residential property in the urban area of Karnal. The respondent is resident of Didwara Tehsil Safidon District Jind. There is nothing unnatural and abnormal if the respondent and Deepak have decided that Deepak should start business of general store in Karnal for his better settlement. In this view of the matter, it is difficult to accept contention of the petitioner that need expressed by the respondent is not genuine or the same is actuated with mala fide.

The respondent purchased disputed shop in December 2012 and filed the eviction application in March 2013. There is nothing on record suggestive of the fact that the respondent had any relationship with the previous owner of the shop in order to accept plea of the petitioner that the respondent purchased the shop only with the intention to evict the tenant. If the respondent had taken the risk of waiting for sometime to evict the tenant in due course of law, the said fact can not stand in his way to seek eviction on the ground of personal necessity of his son.

Counsel has raised an argument that the shop was under litigation at the time of purchase. Counsel has failed to point out any materials on record that the respondent was aware of said litigation between

the petitioner and her previous landlord. This apart, if the petitioner had filed a suit for injunction against her forcible dispossession by the previous landlords, it can not be said that the shop was under such a serious litigation that no prudent person would opt to purchase the shop who really needed it for his personal necessity. In this view of the matter, I find it difficult to accept contention of the petitioner that concurrent findings recorded by the courts suffer from material irregularity rather illegality, warranting intervention in exercise of revisional jurisdiction.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

10.10.2018
paramjit

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