

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

CR No.7060 of 2018 (O&M)
Date of decision : 17.10.2018

Durga Dass Bansal

...Petitioner

Versus

Rajwanti

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mukand Gupta, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

The tenant-petitioner is in the revision petition against the concurrent findings of fact arrived at by both the Courts below ordering the eviction of the tenant on the ground of bona fide necessity of son namely Ankit Mittal.

The Appellate Authority has reversed the finding of the learned Rent Controller ordering the eviction also on the ground of unfit and unsafe. Hence, this Court is only called upon to consider one ground i.e. bona fide requirement of the landlady for establishing his son. It has come in evidence that the entire family of the landlady is in the business of Commission Agent. Landlady now wishes to settle her son namely Ankit Mittal in the demised premises.

Both the Courts have found that the requirement of the landlady for setting her son is bona fide.

Learned counsel for the petitioner has raised two arguments:-

1. Landlady is also owner of shop No.37 which is occupied by her

husband. Hence, he submits that as per the requirement of the Act, since she is occupying the building, she is not qualified to seek eviction.

2. Petitioner-landlady has not appeared in evidence.

This Court has considered the submissions of the learned counsel for the petitioner.

The word used in the statute is occupation of another building in the urban area concerned. When Ankit Mittal appeared in evidence, he has specifically stated that the aforesaid shop is in occupation of his father (husband of the landlady), therefore, the landlady cannot be said to be in occupation of the building of shop No.37.

As regards second argument, it may be noted that the requirement as pleaded by the landlady was with respect to her son Ankit Mittal, who has appeared in evidence and supported his case.

It is well settled that adverse inference for non-appearance of the party in evidence can only be drawn if the evidence available on the file is not sufficient to decide the case. In the present case, the requirement of Ankit Mittal was pleaded who has appeared in evidence.

Hence, there is no ground to interfere with the concurrent findings of fact arrived at by both the Courts below

Revision petition is dismissed.

17.10.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No