

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

1. CR No.7583 of 2016 (O&M)
Date of decision : 22.10.2018

Sunil Dutt

...Petitioner

Versus

Savita Devi and another

...Respondents

2. CR No.5450 of 2018 (O&M)
Date of decision : 22.10.2018

Savita Devi

...Petitioner

Versus

Sunil Dutt and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Jain, Advocate for the petitioner
(In CR No.7583 of 2016)
for respondents (In CR No.5450 of 2018)

Mr. Gopal Sharma, Advocate for respondent No.1
(In CR No.7583 of 2016)
for the petitioner (In CR No.5450 of 2018)

ANIL KSHETARPAL, J. (ORAL)

By this order, two revision petitions bearing CR No.7583 of
2016 and CR No.5450 of 2018 shall stands disposed of.

The tenant-petitioner is in the revision petition against the

concurrent findings of fact arrived at by the Rent Controller affirmed by the Appellate Authority ordering his eviction on the ground of bona fide requirement of the landlady.

It is not in dispute that originally her husband late Sh. Sandeep was owner of the property who had filed the eviction proceedings against the tenant-petitioner. However, during the pendency of the eviction proceedings, he died and thereafter respondent-landlady who is widow withdrew the petition and filed subsequent petition on 16.07.2011. It was pleaded by her that she is idle having no work and is residing separately with her other family members. She further pleads that she has three children to support. The tenant disputed the bona fide requirement and as noticed above, both the Courts after finding that the landlord's requirement is bonafide, ordered the eviction of the tenant-petitioner.

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the judgments passed by both the Courts below.

Learned counsel for the petitioner-tenant has submitted that her plea that she is residing separately with her other family members stands falsified on reading of the cross-examination of the respondent-landlady where she states that she is residing with father-in-law and they are on speaking terms.

Learned counsel has further submitted that the previous petition filed by her husband was withdrawn on 27.05.2011, although, respondent-landlady could have amended the petition but rather chose to withdraw the previous petition and filed a fresh petition within few days. He has further

submitted that now the need is no more there because admittedly the landlady is working as a Staff Nurse in a Hospital.

As regards the concealment of fact, it may be noticed that the property in dispute is a shop (commercial property) and the respondent-landlady is a working woman. Her husband had died. She wants to open a business to support her family.

As regards the pleadings that she is residing separately with her other family members and her admission in the evidence, the aforesaid submission of the learned counsel has to be considered in the proper prospective. Even if the landlady continues to reside with her father-in-law, that would not itself mean or sufficient to conclude that her necessity is not bona fide. Admittedly, she has three children to support and she became widow in 2010.

As regards the necessity ceasing to exist, it may be noticed that the landlady cannot be expected to sit idle for years to come in the hope that after long delay, she would get the possession. In the present case, it has come in evidence that she joined the service after waiting for almost one year and eight months on 09.02.2013 whereas the petition was filed on 16.07.2011. Landlady is still contesting the petition and is wanting to start her own business. The bona fide requirement of the landlady cannot be doubted on the ground that she during the pendency of the present petition has taken up a job.

In view of the aforesaid discussion, there is no ground to interfere. Revision petition bearing CR No.7583 of 2016 shall stands dismissed.

There is cross revision petition bearing CR No.5450 of 2018 filed by the landlady against the finding of the learned Appellate Authority, directing the landlady to refund ₹1,00,000/- which was received as security at the time of inception of the tenancy. The amount of ₹1,00,000/- was received under a proper receipt and at the time of the eviction, landlady is bound to return the same.

For the aforesaid reasons, the revision petition bearing CR No.5450 of 2018, titled as Savita Devi Vs. Sunil Dutt and another shall also stands dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

22.10.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**