

107 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 7543 of 2012(O&M)
Date of decision : 10.08.2018

Ajay Kumar Sehgal

..... Petitioner

versus

Madan Lal Khanna

..... Respondent

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.D.Sharma, Advocate for the petitioner.

AMIT RAWAL, J.

CM No. 16587-CII of 2018

Prayer in this application is for early hearing of the revision petition which is listed for final hearing. It has been stated that the applicant-petitioner is aged about 68 years as per the Aadhaar Card annexed with the application had sought the eviction of the respondent-defendant on the ground of personal necessity.

Keeping in view the aforementioned fact, the application is allowed. Since the petition is already listed, the same is taken on board.

Civil Revision No. 7543 of 2012

The petitioner-landlord instituted an ejectment petition No. 39 of 2008 under Section 13 of The East Punjab Rent Restriction Act (hereinafter referred to as 'the Act' for short) through attorney Mrs. Uma Sehgal for ejectment of the respondent from the portion of building No. EF-10(B-V-1037), Daulat Niwas, Panjpeer, Jalandhar, as per site plan attached, on the ground that the aforementioned premises (shown red in colour in the site plan attached) had been let out to the respondent in the year 1988 i.e. and the respondent had also been in arrears of rent and

house tax at the rate of ₹ 650/- per month w.e.f. 01.04.1999 and the remaining portion in green had been in possession of the petitioner where the petitioner and his wife were running school for almost three years back and since the number of students have increased, owing to the scarcity of the accommodation the necessity arose to seek eviction.

The aforementioned petition was contested by the respondent by taking various preliminary objections in the written statement qua maintainability, locus standi, concealment of facts and there being no relationship of landlord and tenant between the parties etc. On merits, it was denied that the wife of the petitioner was running school. Rather, it was stated that she was not in a position to run any such school being not conversant with the language of the State. The eviction had been sought only for seeking increase in the rent as the demand for increase in rent had not been acceded to. The landlord had two big rooms on the ground floor, eight rooms on the first floor apart from 400 square feet open terrace and had been in possession of house bearing No. EK 144 consisting of 15 rooms in an area adjoining to the property in dispute. Since the parties were at variance, the Rent Controller framed the following issues:-

1. Whether the demised premises are required by the petitioner for his bonafide requirement?OPA
2. Whether the tender made by the respondent is valid?OPR
3. Whether there exists no relationship of landlord and tenant between the parties?OPR
4. Whether the petitioner has got no locus standi to sue the respondent?OPR
5. Relief

The petitioner-landlord examined the following witnesses:-

AW1 - Parveen Kaur, Junior Assistant, House Tax Branch, Municipal Corporation, Jalandhar

AW2 – Uma Sehgal, attorney of the petitioner

AW3- V.K.Gupta, Deputy Manager, PNB, BMC Chow, Jalandhar

Respondent-tenant examined himself as RW1 and closed his evidence.

The Rent Controller, on the basis of evidence produced before him, dismissed the petition and the appeal before the Appellate Authority, established under the Act, was also dismissed.

Mr. B.D.Sharma, learned counsel appearing on behalf of the petitioner-landlord submitted that the Rent Controller and the Appellate Authority have been swayed away from the fact that no evidence with regard to the personal necessity was led. In fact, it has been established on record that the petitioner and his wife had been running school in the demised premises. It is the prerogative of the landlord to decide the nature of need. The tenant cannot dictate the terms to the landlord as the Rent Controller and Appellate Authority have to examine the necessity while sitting in the arm chair of the landlord. The necessity was neither whimsical nor imaginary but specific and bona fide. There was no need of producing the documentary evidence in the shape of school register or number of the students and teachers, for, enough evidence had already been brought on record to establish that the school was being run in the demised premises. The personal necessity cannot be denied on account of expansion of business. Respondent in the cross-examination admitted that the petitioner was in the need of the premises which was a clincher for ordering eviction.

The respondent had though denied the relationship of landlord and tenant but the fact of the matter is that payment of rent to Uma Sehgal-wife of the petitioner was not disputed. The record of the Municipal Corporation, Jalandhar was summoned as the property was assessed to the house-tax but despite cross examination of the aforementioned witness nothing contrary could be extracted.

The respondent has been served but there is no representation. The rent petition is of the year 2012.

I have heard learned counsel for the petitioner, appraised the paper book and am of the view that there is no force and merit in the submissions of learned counsel for the petitioner. No doubt wherever landlord approaches for seeking eviction on the ground of personal necessity, the Rent Controller has to sit in the arm chair of landlord, for, the Rent Controller cannot be swayed away with the submissions of the tenant until and unless the need of the landlord is found whimsical or conjectural. However, in the instant case it has not been proved on record that in what manner the petitioner was permitted to run school in the residential complex. It was incumbent upon the landlord to prove on record not only the strength of the students but teachers as well which could have weighed in the mind of the Rent Controller to assess the necessity. In my view the landlord has miserably failed to discharge the burden of personal necessity as the onus was not discharged. Landlord did not step into the witness box, even the petition has been filed through attorney.

Be that as it may, the concurrent finding of fact and law, in my view, does not call for interference in view of what has been noticed above as well as by the authorities below. I do not intend to differ with the

findings of the authorities below as I find no illegality or error in the same.

No ground is made out for interference.

Revision is dismissed.

(AMIT RAWAL)
JUDGE

10.08.2018
sunita

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