

**CR No.1210 of 2018 (O&M) 1**

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

**CR No.1210 of 2018(O&M)  
Date of Decision: 15.11.2019.**

Kalawati

.....Petitioner

Versus

Parma Nand

..... Respondent

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Virendra Rana, Advocate  
for Mr. Abhimanyu Singh, Advocate  
for the petitioner.

\*\*\*\*\*

**LISA GILL, J(Oral).**

This petition has been filed by the petitioner-landlady being aggrieved of order dated 29.07.2017, passed by the learned Rent Controller, Bhiwani, whereby her petition under Section 13 of the Haryana Uyrban (Control of Rent and Eviction) Act, 1973 (for short 'Act') has been dismissed, as well as order dated 17.11.2017, passed by the learned Appellate Authority, Bhiwani, whereby the petitioner's appeal has also been dismissed.

Brief facts necessary for the adjudication of the case are that petitioner filed a petition under Section 13 of the Act, seeking ejectment of the respondent-tenant from the demised premises i.e., a shop as detailed in the petition, on the ground of non-payment of arrears of rent and personal *bona fide* necessity of the petitioner. It is pleaded that the petitioner's son had become busy in his own business and her daughter had got married. Therefore, petitioner felt lonely and being educated, besides having knowledge of tailoring and embroidery, she wanted to start her own

boutique from the demised premises. It is further averred that the respondent had acquired two other shops in the area and the shop in dispute had been handed over by the tenant to his own son while he himself had shifted to another shop. The petitioner-landlady, claimed to be a poor lady. She wanted to start a boutique for smooth running of her house and family as well. The petition was contested by the tenant.

Learned Rent Controller, Bhiwani, on considering the facts, circumstances and evidence on record, concluded that the ground of non-payment of arrears of rent, did not survive as the same was tendered by the tenant. It is further held that the petitioner was unable to prove her personal *bona fide* necessity in this case. The petitioner, was held guilty of withholding material facts from the Court and the petition was accordingly dismissed.

Learned Appellate Authority, Bhiwani, upheld the said finding while observing that the petitioner was in-fact guilty of withholding the information from the Court inasmuch as while pleading that her daughter had got married and the landlady claiming herself to be an educated person wanting to run a boutique, admitted in her cross-examination that her daughter was still unmarried and that she herself had studied up to the 5<sup>th</sup> standard only. Appeal filed by the petitioner was also dismissed.

Aggrieved therefrom, present revision petition has been filed.

Learned counsel for the petitioner vehemently argues that both the learned Courts below have grossly erred in law and on facts in dismissing the petition under Section 13 of the Act, filed by the petitioner-landlady. It is argued that the landlord is the best judge of his or her own requirement and it is not for the tenant to dictate the same. It is further submitted that being educated, is not a prerequisite for starting tailoring

work or running a boutique. Moreover, admission on the part of the petitioner that she has studied only up till 5<sup>th</sup> standard or that her daughter was still unmarried, is not relevant and material in the given facts and circumstances of the case. Respondent-tenant, cannot have any right to continue in possession of the demised premises in view of the personal *bona fide* necessity, duly proved on record. It is thus prayed that the present revision petition be allowed and the judgements passed by the learned Courts below be set aside.

I have heard learned counsel for the petitioner with his assistance and have carefully gone through the file as well as photocopy of the record, which was requisitioned.

There is no dispute regarding the proposition that the landlord is the best judge of his or her own requirement. It is indeed not for the tenant to dictate in this respect. However, at the same time, it is a settled position of law that the necessity projected by the landlord has to be *bona fide*. The landlord has to prove his or her personal *bona fide* necessity. It is not to be a mere fancy or a whimsical desire of the landlord, which can be a ground for ejectment.

In the instant case, learned counsel for the petitioner is unable to deny that the petitioner has categorically pleaded in her petition that her son had become busy in his own business and her daughter had got married, due to which the petitioner felt lonely and wanted to start running a boutique as she was educated besides having knowledge of the work of tailoring and embroidery. It is further pleaded that she did not have a vacant shop in her possession neither she had vacated any shop after the commencement of the Act in question. However, at the same time, the petitioner admitted in her cross-examination that her daughter was not married, but was of

marriageable age. It is further conceded by the petitioner that she had studied up till the 5<sup>th</sup> standard only. It is further a matter of record that the landlady owned two shops on the first floor of the suit property, out of which one was in her possession and there is no evidence to show that the said shop which is in her possession, is unsuitable for the proposed business. Needless to say, being an educated person is not prerequisite for running a boutique, but the question involved in this case is that the petitioner has not come to Court with clean hands. The petitioner is guilty of withholding material facts and in-fact has tried to project inaccuracies before the Court in her attempt to prove the so called *bona fide* necessity. It is due to this reason that relief has to be denied to the petitioner. It is a settled position that a litigant who does not approach the Court with clean hands, is not entitled to any indulgence. Keeping in view the facts and circumstances of the case, learned Courts below have rightly dismissed the petition filed by the petitioner-landlady.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 29.07.2017, passed by the learned Rent Controller, Bhiwani and order dated 17.11.2017, passed by the learned Appellate Authority, Bhiwani, which calls for interference by this Court in exercise of revisional jurisdiction.

No other argument has been raised.

Petition is accordingly dismissed with no order as to cost.

**15.11.2019**  
s.khan

**[LISA GILL]**  
**Judge**

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.