

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

CR-680-2017 (O&M)
Date of decision : 12.03.2020

Sant Lal

...Petitioner

Versus

Mamta

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Arun Jain, Sr. Advocate with
Mr. Abhishek Dhull, Advocate and
Mr. Pavan Malik, Advocate for the petitioner.

Mr. N.D. Achint, Advocate for the respondent.

ANIL KSHETARPAL, J.

The tenant-petitioner has filed the present revision petition under Section 15(6) of the Haryana Urban (Control of Rent and Eviction) Act, 1973, (hereinafter to be referred as “the 1973 Act”), against the orders of eviction passed by the Rent Controller, affirmed in appeal by the Appellate Authority.

Landlady-respondent had filed the petition under Section 13 of the 1973 Act on the ground of her bona fide requirement. She is a Doctor having degree of Bachelor's in Dental Science. She wants to open her clinic from the tenanted premises. The petitioner-tenant contested the petition on the ground that her requirement is not bona fide. It was further pleaded that her father is in the business of purchase and sale of the property and has other shops.

When the petition was pending before the Rent Controller, she

got married with an Engineer and started residing at Pune. However, during the pendency of the petition itself, she came and settled in Noida as her husband got an employment in Noida.

Keeping in view the aforesaid facts, learned Rent Controller as well as the Appellate Authority have concurrently held that the requirement of the landlady is bona fide as neither she is the owner nor in possession of any other commercial property within the urban area concerned.

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

Learned Senior Counsel appearing on behalf of the tenant-petitioner has submitted that the landlady got married and started living at Pune. Now, she is residing at Noida which is at a distance of 80 Km. He further submitted that the landlady has 3½ years old child. After her marriage, she is not in active practice, therefore, he submitted that the requirement of the landlady is not bona fide.

On the other hand, learned counsel for the respondent has submitted that when the landlady appeared in evidence, she has specifically stated that she wants to open her clinic in the tenanted premises. He further submitted that the distance between Noida and Sohna is only 80 Km and some arrangement can be made keeping in view the fact that she is a qualified Doctor. He further drew attention of the Court to the statement of the landlady wherein she has stated that before marriage, she used to practice alongwith her father, who is also a Doctor.

This Court has considered the submissions and analyzed the

arguments of learned counsel for the parties.

In the considered view of this Court, the bona fide requirement of the landlady cannot be doubted only because she has subsequently got married and has started living at Noida. The rights of the party crystallized on the day the petition was filed. It is not in dispute that the landlady has a degree of Bachelor's in Dental Science and is qualified and eligible to start private practice by opening a clinic. It has also come on record that she was practicing alongwith her father before marriage. In such circumstances, the bona fide requirement of the landlady is established. The tenant has failed to justify and prove that the requirement of the landlady is not bona fide.

As regards next submission, it may be noted that the landlady is now family member of her in-laws. In such circumstances, the properties/shops owned by her father cannot be claimed by her as a matter of right during the lifetime of her father. Still further, this Court has also been informed that Dr. Hukam Chand, father of the landlady has two sons and six daughters.

Landlady is owner of the tenanted premises only. Hence, there is no ground to interfere.

Accordingly, the present revision petition is dismissed.

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

12.03.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No