

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

CR-7048-2018 (O&M)

Date of decision : 31.01.2020

Mahabir Parsad

...Petitioner

Versus

Sudershan Kumari

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Deepak Girotra, Advocate and
Ms. Swati Sharma, Advocate
for the petitioner.

Mr. Piyush Aggarwal, Advocate
for the LR's of respondent.

ANIL KSHETARPAL, J. (ORAL)

Tenant-petitioner has filed the present revision petition against the order of eviction passed by the Rent Controller under the Haryana Urban (Control of Rent and Eviction) Act, 1973, affirmed in appeal by the Appellate Authority.

At the outset, it must be noticed that the landlady has died during the pendency of the present revision petition. However, in view of the judgment passed by Hon'ble the Supreme Court in the case of **Phool Rani (Smt) and others Vs. Sh. Naubat Rai Ahluwalia, (1973) 1 SCC 688**, the present case falls in the category (i) of para 13 of the aforesaid judgment, which is extracted as under:-

“13. Several decisions were cited before us but those falling within the following categories are to be distinguished -

(i) cases in which the death of the plaintiff occurred after a decree for possession was passed in his favour; say, during the pendency of an appeal filed by the unsuccessful tenant;

(ii) cases in which the death of the decree- holder landlord was pleaded as a defence in execution proceedings; and

(iii) cases in which, not the plaintiff but the defendant-tenant died during the pendency of the proceedings and the tenant's heirs took the plea that the ejectment proceedings cannot be continued against them.”

Hon'ble the Supreme Court has held that once the decree for possession has been passed, death of landlord/landlady would not 'ipso facto' result in dismissal of the petition or in other words, personal necessity has come to an end. In fact, it has been held that such decree for possession becomes part of his/her estate.

Now stage is set for considering the case on merits.

Learned counsel for the petitioner submits that the landlady was owner of two other commercial properties, however, factum thereof, was not disclosed in the petition. He further submitted that another petition has been filed by the deceased landlady, with respect to another shop, against Naresh and others, in which also, order of eviction has been passed. He further submitted that there was yet another premises which has been got vacated by the landlord.

On the Court question, learned counsel for the petitioner has

admitted that although the eviction order against another tenant Naresh etc. has been passed, however, appeal against the aforesaid judgment of eviction is pending. Thus, the landlady or her heirs have not been delivered possession thereof.

As regards next argument, learned counsel for the petitioner is unable to disclose the details of property No.3 which was got vacated by the landlady. This Court cannot be expected to decide the cases on the basis of vague plea. If the tenant wants to defeat the right of the landlord, he has to disclose the shop/property number which has become available to the landlord/landlady. Still further, the petitioner failed to draw attention of the Court, to the requirement of law that the landlord is required to, while filing of petition on the ground of bona fide personal necessity, disclose details of all the properties owned by him/her/it. In absence thereof, this Court does not find any good 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.

31.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No