

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3900 of 2019 (O&M)

Date of Decision: 10.11.2021

Naveen Kumar Chopra

... Petitioner(s)

Versus

Sushil Kumar

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. A.D.S.Jattana, Advocate
for the petitioner(s).

Mr. R.N.Lohan, Advocate
for the respondent.

Anil Kshetarpal, J.

1. This revision petition has been preferred by the tenant assailing the correctness of the order passed by the Appellate Authority. The respondent herein (the landlord) filed a petition under Section 13(iii)(a)(i) of the Haryana Urban (Control of Rent and Eviction) Act, 1973, seeking eviction of the petitioner from one shop situated in Jind. The Rent Controller, vide a judgment dated 02.12.2015, dismissed the petition qua bonafide requirement of the landlord with the following observations:-

“The solitary deposition of PW1, petitioner himself is completely untrustworthy with regard to the bonafide and genuine need of the premises. Rather, to material questions pertaining to the said point, he has merely reflected his ignorance and he could not state the specific terms with regard to the nature of business which he wants to establish in the

demised shop. Moreover, even his ground of he being unemployed and in extreme need of the premises has not been established on record. He has admitted that he does not has any ownership proof with regard to the demised shop and after death of his father he has not worked anywhere. In such circumstances, this Court is of the opinion that mere vague assertions with regard to the bonafide need of the demised shop cannot take place of proof. It is well settled that the onus to prove the present issue was on the shoulders of the petitioner and the quality of evidence, both oral and documentary is not of the nature which can give impetus to such weak and vague assertions”.

2. The respondent filed an appeal assailing the correctness of the order passed by the Rent Controller. The Appellate Authority has reversed the judgment of the Rent Controller while observing as under:-

*“11. After hearing the learned counsel for the parties and after going through the case file carefully, it is observed that the relationship between the parties is not denied and it is always the landlord whose bonafide necessity is to be considered and if the landlord wants to use the tenanted premises for his personal necessity, the tenant cannot dictate terms to the landlord explaining his personal necessity. As far as bonafide necessity of the landlord is concerned, in the authority **"J.Jermans Versus S.A.Shahul Hameed (Died) 1997(2) RCR 749** it was held that being owners of premises,*

*landlord cannot be denied eviction merely to enable the tenant to carry out his own business at the cost of landlord. Further in the authority **M/s.Satpal Vijay Kumar vs Sushil Kumar, 2011 (2)RCR (Civil) 82 (P&H)** it was held by our own Hon'ble High Court that when eviction is sought on the ground of bonafide need, the Rent Controller shall not proceed on the assumption that requirement is not bonafide and if the landlord states that he needs the demised shop for establishment of new business or to extend the business, his need should always be presumed as correct and genuine. It was further held by the Hon'ble High Court that the landlord is the best judge of his need and requirement and neither Court nor tenant can curtail legitimate right of the landlord to expand the business or to start the new business, since landlord is having other businesses. Similarly, in the authority **Dr.B.B.Patil Vs B. Ishwarappa and another, 1992(1) Rent Control Reporter 607 (Karnataka)** it was held by the Hon'ble Karnatka High Court that the landlord is entitled to eject the tenant for his personal necessity. In the authority **P.Suryanarayana (D) by Lrs vs K.S.Muddugowramma, 2004 (3) SCC 589 (SC)** it has been held by the Hon'ble Apex Court that where landlord had sought the eviction of the tenant for occupation of himself or any member of his family, court shall presume that premises were so required and it is a mandatory presumption, which the tenant may rebut. The learned Rent Controller has committed error while dismissing the ejectment*

petition. The respondent-tenant cannot continue as a tenant in the premises in question which is required by the appellant-landlord for their personal use and occupation which has been proved by the appellant-landlord by leading cogent evidence. The tenant cannot dictate terms to the landlord and mere filing of criminal cases against the appellant-landlord does not make a ground for dismissal of the ejectment petition. No loss was caused by the appellant-landlord to the tenant as pleaded by him regarding the damage done in his shop as no truth was found in his complaint in inquiry by the police. A balance has to be struck between the need of protecting the tenant from unjustified eviction and the need for eviction when ground for eviction is one such as the requirement of the landlord. The expression "for his own use" has to be read in a manner so as not to deny the landlord a right to evict his tenant when he needs the accommodation for his own children/family member to settle them well in life. Hence, the findings on issue no.1 are reversed and the same is decided in favour of the appellant-landlord".

3. From careful reading of the order passed by the Appellate Authority, it is evident that the Appellate Authority has failed to analyze the reasons given by the Rent Controller while dismissing the petition. The Appellate Authority, while deciding the appeal, is required to analyze the reasons given by the Rent Controller and thereafter confirm or reverse the finding by the process of reasoning. No doubt, the Appellate Authority has

all the powers which are vested with the Rent Controller. However, once the judgment has been given by the Rent Controller, then it is expected from the Appellate Authority to meet with the reasons given by the Rent Controller before reversing the same. In the considered opinion of this Bench, the Appellate Authority has failed to fulfill that requirement. It is evident that the Appellate Authority has made general observations without adverting to the specific reasons given by the Rent Controller.

4. Keeping in view the aforesaid facts, the order passed by the Appellate Authority is set aside. The matter is remitted back to the Appellate Authority to re-decide the appeal within a period of one month from the date of receipt of a certified copy of this order. The parties, through their learned counsel, are directed to appear before the Rent Controller on 15.11.2021. The parties shall be at liberty to file their written synopsis along with the gist of their arguments before the Appellate Authority within a period of 15 days.

5. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

November 10, 2021
“DK”

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No