

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104

CR-298-2010 (O&M)
Date of decision : 14.07.2022

Mool Raj Sharma

...Petitioner

Versus

Soni Devi

....Respondent

CORAM : HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.G.S.Bhatia, Advocate
for the petitioner.

Mr. Vivek Sharma Vashisht, Advocate for
Mr. Gurcharan Dass, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

While assailing the correctness of the findings of facts arrived at by the authorities below, the petitioner (tenant herein) has filed the present revision petition. Both the Courts below have ordered the eviction of the petitioner on the ground that the landlady requires the premises bonafidely for herself and her family.

Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book as well as the record, which was requisitioned.

At the outset, it is noted here that the petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 was filed on 12.03.1997 i.e. 25 years back. The first argument of the learned counsel representing the petitioner is to the effect that the landlady has died and

therefore, the bonafide personal necessity has ceased to exist. It is also noted here that while filing the petition in the year 1997, she has specifically stated in para 4(d) of the petition that she requires the premises for her own personal use and occupation and that for the use of her family members. Hence, death of the landlady will not have any effect on the bonafide necessity of the premises for two reasons stated hereinafter:- (i) the requirement of the property to use by her family has already been pleaded in the rent petition and (ii) both the authorities ordered the ejectment of the petitioner, when she was alive. She died on 18.01.2011 i.e. during the pendency of the revision petition. The revision petition is required to be decided while examining the correctness of the judgments passed by the Courts below. It will be noted here that this Bench had an opportunity to examine the aforesaid question in **Krishna Ornaments vs. Phera Singh, CR NO.5962 of 2007, decided on 19.03.2020 and other connected cases.** After noticing the various judgments passed by the Supreme Court including **Phool Rani and others vs. Sh. Naubat Rai Ahluwalia, (1973) 1 SCC 688, Shantilal Thakordass and others vs. Maganlal Telwala, (1976) 4 SCC 417 and Shankuntla Bai and others vs. Narayan Dass and others, (2004) 5 SCC 772,** it was held that during the pendency of revision petition, the death of landlady would have no effect on the bonafide necessity, particularly, when the requirement of the family member has already been asserted in the rent petition.

The next argument of learned counsel is that there is a contradiction in the deposition of the landlady's son, who has appeared in

evidence and the landlady herself. He submits that the son has explained that he is residing in Shivpuri, On the reading of the statement of the landlady, it is evident that she has explained that the son has already sold the property located at Shivpuri. Furthermore, the landlord cannot be expected to continue to reside in a congested and insufficient place merely because the litigation in the Courts take a long time to be decided.

The scope of interference in revision petition has been delineated in *M/s Hindustan Petroleum Corporation Ltd. vs. Dilbahar Singh (2014) 9 SCC 78* by a five Judge Bench of Hon'ble Supreme Court laying down that in the absence of perversity, the revisional Court should not interfere in the decisions given by the Courts below.

Keeping in view the aforesaid facts, no ground for interference is made out.

Hence, dismissed.

14.07.2022

anju

(ANIL KSHETARPAL)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No