

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

CR-2110-2018 (O&M)

Date of decision: 09.12.2022

Ganesh Chand

....Petitioner

Versus

Smt. Bateri Devi

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Divanshu Jain, Advocate for the petitioner
 Mr. Munish Gupta, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. The petitioner herein, is a tenant in a shop owned by Smt. Bateri Devi, which is located in Narnaul. Though the Rent Controller has dismissed the petition, however, the appellate authority has reversed the judgment of the Rent Controller while allowing the eviction petition filed by Smt. Bateri Devi on the ground of bonafide necessity of her son and daughter-in-law, who are handicapped. It is claimed that they want to do tailoring work in the shop in question.

2. The correctness of the judgment passed by the appellate authority is being questioned in this revision petition.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

4. Learned counsel representing the petitioner contends that on 15th November, 2006, the landlady filed a previous eviction petition for her own personal requirement as well as her son's. However, the said petition was withdrawn on 27th February, 2013. He submits that within a period of six days, a fresh petition was filed on the ground of requirement

of her son as well as daughter in law. He submits that the landlady has another shop, which was in possession of Zile Singh, but has now become available to the landlady. Hence, the previous petition was withdrawn. He submits that without utilising the said shop, the present petition has been filed. Hence, the requirement of the landlady is not bonafide.

5. On the other hand, the learned counsel representing the respondent submits that availability of the shop, which was in occupation of Zile Singh is disclosed in the rent petition. He submits that respondent's son and daughter-in-law want to do their business properly from this shop as both of them are handicapped.

6. Though, the argument of the learned counsel representing the petitioner is prima facie convincing, however, is found without substance on deeper scrutiny. In the petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, the landlady has stated that her son Har Narain and his wife Kamlesh Devi suffer from 40% and 70% disability, respectively. They do not have enough space for doing their work of tailoring. It has been stated that the aforesaid shop which fell vacant is a small shop and both are not able to carry their work properly in the said shop. In other words, the landlady has explained that the aforesaid shop is not suitable and adequate for the requirement of her son and daughter-in-law. Though it has not been explicitly stated in the petition but on comprehensive reading of para 6(b), it is evident that this fact has been stated by the landlady.

7. It is well settled that the landlady is entitled to seek possession of the rented space/premises for her bonafide necessity, which includes that of her children.

8. Undoubtedly, a previous eviction petition was filed but the requirement in the previous petition was different from this petition. In that case, she pleaded her own requirement alongwith her son whereas in this petition the requirement of her son and daughter-in-law has been pleaded.

9. Both daughter-in-law and her son have appeared in evidence to prove their requirement for the premises in question.

10. Hence, the filing of the previous petition and its withdrawal will not have any adverse impact on the maintainability of this petition. Moreover, the landlady has filed an application for vacation of stay while asserting that neither the petitioner (tenant) is now in occupation of the rented premises nor he is paying the rent. Even the electricity connection installed in the rented premises has been disconnected on account of default of payment of consumption charges to the tune of Rs.93000/-. Learned counsel representing the petitioner has not controverted the aforesaid facts.

11. Hence, dismissed.

12. All the pending miscellaneous applications, if any, are also disposed of.

09.12.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE