

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-523 of 2016 (O&M)
Date of decision: 11.11.2022

Kishore Kumar

..Petitioner

Versus

Rajinder Prashad

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Divanshu Jain, Advocate
for the petitioner.

Mr. Ankur Bali, Advocate
for the respondent.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein, is a tenant, in the premises owned by the respondent. He has been ordered to be ejected by the Rent Controller. The Appellate Authority has dismissed the petitioner's appeal assailing the correctness of the order. The eviction has been ordered on the ground of the bonafide personal necessity of the respondent.

2. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book as well as the record which was requisitioned.

3. The landlord while filing the petition claims that he requires the house in question for his bonafide personal necessity as he along with his family wants to shift from Delhi to Ambala after his retirement on 30.10.2010, whereas the petition was filed on 24.12.2012. He states that he wants to shift to his native place in the evening i.e.the remaining part of his life.

4. The learned counsel representing the petitioner submits that the previous petition filed by the respondent seeking ejectment of the petitioner was dismissed in default but the second petition has been filed without getting the previous petition restored. He further submits that the respondent has sold the adjoining property, therefore, he had no bonafide necessity as stated by him. He further submits that the respondent while filing the petition did not fulfill the necessary ingredients of Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973.

5. On the other hand the learned counsel representing the respondent contends that though the previous petition was filed but due to the destruction of the record, there is no evidence to the effect that when the previous petition was dismissed in default and the petitioner (tenant) was present. He further submits that the adjoining property was sold in the year 1986, however, after retirement the circumstances changed. He submits that the sale of property 24 years before the retirement cannot be used against him. He further submits that the mistake, if any, with regard to failure to assert the necessary ingredients has already been fulfilled while leading evidence and the tenant never objected to the maintainability of the petition while filing the written statement.

6. This court has considered the submissions of the learned counsels representing the parties.

7. The proceedings under the Haryana Urban (Control of Rent and Eviction) Act, 1973 are summary in nature. Even if the broader principle of the Code of Civil Procedure, 1908 is applicable, in this case the petitioner has failed to prove that on the date the previous petition was dismissed for non-prosecution, he was present in the court.

8. Hence, the subsequent petition is maintainable.
9. The respondent filed a petition before the Rent Controller in the year 2012. The sale of property in the year 1986 is not sufficient to prove that the requirement of the landlord is not bonafide.
10. As regards the argument of the lack of pleadings, the matter is covered by the judgment passed in M/s Vishal Sarees and Dresses and another vs. Maninder Kaur and others (Civil Revision No.6665 of 2016, decided on 17.08.2022).
11. Hence, no ground to interfere is made out.
12. Dismissed.
13. All the pending miscellaneous applications, if any, are also disposed of.

November 11, 2022

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(ANIL KSHETARPAL)
JUDGE

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