

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

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**CR No. 2844 of 2022 (O&M)
Date of decision : 08.12.2022**

Bahadur Singh

...Petitioner

Vs.

Hardev Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. S.S. Sodhi, Advocate
for the petitioner.

...

HARKESH MANUJA, J. (Oral)

Challenge in this revision petition has been made to the order dated 28.11.2019 passed by the Rent Controller, Rupnagar and affirmed by the Appellate Authority vide its order dated 07.04.2022 whereby eviction was ordered against the petitioner-tenant.

Brief facts of the case are that the respondent-landlord filed an eviction petition against the petitioner-tenant on the grounds of non-payment of rent, bonafide requirement as well as for material alteration resulting into diminishing of the value and utility of the property in question which consists of two shops situated at Niholka Road, Kurali.

Upon notice, the petitioner-tenant appeared and contested the eviction petition, disputing the claim set up by the respondent/landlord. It was submitted that two sons of respondent-landlord were well settled and there was no need for him to set up a separate business at the fag end of his life.

Rent Controller vide its order dated 28.11.2019 allowed the

eviction petition filed at the instance of respondent-landlord by holding that the demised premises was required for his personal bonafide need. However, the findings as regards non-payment of rent and material alteration were recorded in favour of the petitioner-tenant.

Aggrieved against the order dated 28.11.2019 passed by the Rent Controller, the petitioner-tenant filed first appeal. The Appellate Authority vide its order dated 07.04.2022 affirmed the findings recorded by the Rent Controller.

Learned counsel for the petitioner submits that in the present case, the respondent-landlord has failed to establish his personal bonafide need and requirement of the demised premises. In this regard, he refers to Ex. P-2 and Ex.P-3 and submits that these two documents were the only evidence produced by the respondent-landlord in order to prove his case as pleaded in the ejectment petition as regards setting up of a business of sale of agriculture equipment. Learned counsel also submits that in the given situation, once the two sons of respondent-landlord were well established and he himself being too old, the case of his personal necessity was not made out, the same being mere a wish. He further submits that Ex. P-2 and Ex.P-3 which relate to some agency of agricultural implements being offered to the respondent-landlord were never proved on record as per law and, thus, the same could not have been considered for the purpose of ordering eviction, by the courts below. He also submits that these two documents only pertain to a period of 2 years and any further extension thereof, was never proved on record by the respondent-landlord.

I have heard learned counsel for the petitioner and gone through the paper-book as well as records of the Courts below, however, I

am unable to accept the submissions made in support of the petition. A perusal of the record shows that the documents Ex. P-2 and Ex.P-3 were produced on record in the statement of AW-1 i.e. respondent-landlord on 01.05.2017. Neither at the time of recording of the statement of AW-1, nor at the time of his cross-examination or even at the time of passing of the order dated 01.05.2017 by the Rent Controller, any objection was raised at the instance of petitioner-tenant as regards the mode of proof or admissibility of documents Ex.P-2 and Ex.P-3. In this situation, the petitioner-tenant cannot be permitted to raise any such objection regarding mode of proof of Ex.-P-2 and Ex.P-3 now at this stage of present revision petition. Even otherwise, in the facts and circumstances of the present case, the statement of respondent-landlord i.e. AW-1 sufficiently proves his bonafide requirement qua the demised premises. Mere fact that the respondent-landlord happens to be an old man of 81 years of age at the time of filing of eviction petition cannot be taken to be against him for the purpose of setting up of a new venture at this age of his life, particularly in the circumstances when both his sons are not living with him and are settled beyond their native place. The old man requires his two shops, infact to keep himself busy and make his life more purposeful besides helping him out financially as well. It may also be pointed out here that even an old man initiating to set up a new venture can always employ young and vibrant individuals to support him in his work and can manage the same from the backroom, thus, the age of the respondent-landlord in the facts and circumstances of the present case, cannot be held to be adversarial to his rights of setting up of his business activity and, therefore, cannot be termed to be a mere wish or desire.

Accordingly, in view of the discussions made herein above, I do not find any merit in the present revision petition so as to interfere with the concurrent findings recorded by the Courts below. Therefore, the present revision petition is hereby dismissed in limine.

Pending application(s), if any, shall also stand disposed of.

08.12.2022
Harish Kumar

(HARKESH MANUJA)
JUDGE

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