

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

R-799-1

CR No.6984 of 2010

Date of Decision : 08.02.2023

Mohinder Kumar and Others

....Petitioners

VERSUS

Dayal Singh

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.K. Rana, Advocate for the petitioners.

Mr. Amit Jaiswal, Advocate for the respondent.

ALKA SARIN, J. (Oral)

The present revision petition has been preferred by the landlord-petitioners against the orders passed by both the Authorities below dismissing their ejectment petition.

The brief facts relevant to the present *lis* are that the landlord-petitioners filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as the 'Haryana Rent Act') for ejectment of the tenant-respondent from property bearing nos.752 and 752/1, Bich Ki Diggi, Ambala Cantt. It was averred in the ejectment petition that the tenant-respondent took part of property no.752, Bich Ki Diggi, Ambala Cantt. on a rent @ Rs.200/- per month from the grandmother of the landlord-petitioners for his residential purpose and that the electricity and water charges were to be paid by the tenant-respondent. The tenant-respondent agreed to pay the advance rent at the rate of Rs.75/- per month. It was further averred that the tenant-respondent was liable to be evicted from the demised premises on the ground that he had not paid the rent w.e.f. 01.08.2004 onwards. It was also averred that the tenant-

respondent was creating a nuisance in the locality. It was further the case set up that the landlord-petitioners required the demised premises for their personal use and occupation because the landlord-petitioner nos.1, 3 and 4 have no house for their residential premises and they are living in a rented accommodation situated at Ram Bagh Road, Ambala Cantt. It was also averred that the tenant-respondent has his own house and he can safely reside there. The landlord-petitioners also took the plea that the demised premises were unfit and unsafe for human habitation.

The tenant-respondent filed a written statement raising preliminary objections qua maintainability, *locus standi*, non-joinder and mis-joinder of parties and claimed that there was no relationship of landlord and tenant between the parties. On merits, it was denied that the landlord-petitioners are owners of the demised premises and that the tenant-respondent was a tenant under the temple and one Ram Chander, Gardner, who used to collect the rent on behalf of the temple. It was also submitted that the rent along with interest and costs had been tendered with the condition that the same would be paid to the correct owner. The *bonafide* necessity of the landlord-petitioners was also denied.

On the basis of pleadings of the parties, the following issues were framed :

1. Whether respondent is liable to be ejected on the ground of non payment of rent? OPP
2. Whether the respondent is liable to be ejected on the ground of nuisance? OPP
3. Whether the respondent is liable to be ejected on the ground of personal necessity? OPP

4. Whether the respondent is liable to be ejected on the ground that building is not fit for human habitation? OPP
5. Whether the petition is not maintainable? OPR
6. Whether the petitioner has no *locus standi*? OPR
7. Whether there is no relationship of landlord and tenant? OPR
8. Whether the petition is bad for non joinder of necessary parties? OPR
9. Relief.

The rent was paid by the tenant-respondent and hence, the ground of arrears of rent did not survive. The plea *qua* nuisance was not pressed at the time of arguments. *Qua* personal necessity, the Rent Controller held that the landlord-petitioners had failed to prove their personal necessity inasmuch as except for the bald statement of landlord-petitioner no.1 - Mohinder Kumar - there was no other oral or documentary evidence to prove the personal necessity of the landlord-petitioners. No rent receipt *qua* the accommodation which was alleged to have been taken on rent was produced on the record. It was further held that though it has been averred by the landlord-petitioners that their family consisted of 21 members, however, except for the bald statement there was no evidence to this effect. The ground of personal necessity was held as not proved. *Qua* the demised premises being unfit and unsafe for human habitation, the issue was decided against the landlord-petitioners and in favour of the tenant-respondent. Issue nos.6 and 7 “*whether the petitioners have locus standi to file the ejectment petition*” and “*as to whether there existed relationship of the landlord and tenant*” were taken up together. It was held by the Rent Controller that there existed no relationship of landlord and tenant between

the parties and that the landlord-petitioners had no *locus standi* to file the ejectment petition. *Qua* relationship of landlord and tenant, it was held by the Rent Controller that the tenant-respondent was inducted as a tenant by one Ram Chander, however, the LRs of said Ram Chander have not come forward to be impleaded as landlord. It was further observed that the landlord-petitioner No.1 in his examination had admitted that neither the demised premises was let out by him nor it was let out by his father. It has also been admitted by the landlord-petitioner No.1 that in the General Land Records a temple has been shown to be owner of the demised premises. Even the Municipal Committee receipts (Ex.P20, Ex.P25 to Ex.P27) were issued in the name of the temple and not in the name of any other person. No objection certificate (Ex.P31) was also issued by the Municipal Committee in favour of the temple. No document was placed on the record to show that Maya Devi, the alleged grandmother of the landlord-petitioners, was owner of the demised premises. In view of the findings recorded, the Rent Controller dismissed the ejectment petition vide order dated 10.12.2009. Aggrieved by the said order, an appeal was preferred by the landlord-petitioners. Though the Appellate Authority dismissed the appeal vide order dated 27.07.2010, on the point whether there existed relationship of landlord and tenant it held that there was an admission by the tenant-respondent who stated that he had taken the demised premises on rent from Ram Chander and he used to give rent to Ram Chander. The tenant-respondent also admitted that Ram Chander had expired and his wife's name was Maya Devi, who also expired in 1995 and further that there was a registered Will of Maya Devi on the record as Ex.P32. By way of the said Will, she had bequeathed the demised premises to her grandsons

i.e. the landlord-petitioners. Accordingly, the findings of the Rent Controller on issue nos.6 and 7 were reversed, however, holding that the necessary ingredients of *bonafide* necessity were not proved, the appeal was dismissed. Hence, the present civil revision.

Learned counsel for the landlord-petitioners would contend that it is an admitted case of the tenant-respondent that the landlord-petitioners and family were staying in a rented accommodation and in view thereof the ground of personal necessity stood proved. He would further contend that in view of the fact that there is no specific denial in the written statement *qua bonafide* personal necessity of the landlord-petitioners, hence, the same would be deemed to be admitted. It is further the contention that a landlord is the best judge of his needs. In support of his argument, he has relied upon a judgment of the Hon'ble Supreme Court in the case of **M. Venkataramana Hebbar (D) by LRs vs. M. Rajagopal Hebbar & Ors. [2007 (2) RCR (Civil) 404]**.

Per contra learned counsel for the tenant-respondent has contended that there is not an iota of evidence on the record to prove that the landlord-petitioners are the owners of the premises in dispute. It is further the argument that the landlord-petitioners have failed to prove their *bonafide* necessity and that the orders passed by the Authorities below did not warrant any interference.

I have heard learned counsel for the parties.

In the present case it was stated in para 5(iii) of the ejectment petition that the landlord-petitioners required the demised premises for their personal use and occupation because the landlord-petitioner nos.1, 3 and 4 have no house for their residential premises and were living in a rented

premises. In the written statement, the contents of para 5(iii) were denied. It was stated that the ejectment petition had been filed only to grab the temple property. The deemed admission in the written statement upon which much stress has been laid by learned counsel for the landlord-petitioners is only to the effect that the landlord-petitioner nos.1, 3 and 4 are living in rented premises. The case set-up by the landlord-petitioners is that there are 21 members in the family. Except for the bald statement of the landlord-petitioner No.1, nothing has been produced on the record to prove this fact. Nothing is forthcoming from the record to show that the demised premises is required for personal *bonafide* necessity. Mere desire of the landlord to get the premises vacated is not enough. Personal *bonafide* need of the landlord and the family members needs to be proved. The learned counsel for the landlord-petitioners is unable to show any evidence on the record to prove the *bonafide* personal necessity of the petitioner-landlords. In view thereof, the judgment cited by the counsel for the landlord-petitioners is clearly distinguishable and not applicable to the facts of the present case.

In view of the above, I do not find any ground to interfere in the well reasoned orders passed by both the Authorities below. The revision petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

08.02.2023
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO