

[103] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-8729-2017 (O&M)
Date of Decision : 09.02.2023

Vijay Kumar ...Petitioner
versus

Suman Rani and anotherRespondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Ashish Verma, Advocate for the petitioner.

Mr. Akhil Kashyap, Advocate for Mr. Parveen K. Kataria,
Advocate for respondent Nos.1 & 2.

B.S. Walia, J. (Oral)

[1] Challenge in the instant revision petition by the tenant is to judgment dated 18.12.2015 passed by the learned Rent Controller, Amritsar as upheld by the learned Appellate Authority, Amritsar vide judgment dated 04.10.2017, ordering ejectment of the petitioner on the ground of non payment of rent as well bonafide personal necessity of the landlord owners.

[2] Learned Counsel for the parties are *ad idem* on the factual aspect of the matter, namely of the shop, in question, from which ejectment of the petitioner has been ordered, belonging to the wife and daughter-in-law, respectively of Raj Kumar for whom the shop is required for running the business of selling consumer products etc.

[3] Learned Counsel contends while learned counsel for respondent Nos.1 & 2 admits that entire payment of rent due till date has been made to the respondents and that in the circumstances, the sole point in issue is w.r.t. validity of order of ejectment of the petitioner from the premises in question on the ground of bona fide personal necessity of the landlord(s).

[4] Learned counsel contends that no doubt, the son / husband of the co-owners, respectively also has a shop from which he is carrying on business but the said business is only during morning time as well as evening, while during day time, he does business as a hawker-salesman, therefore, adequate premises are available for the husband/father-in-law, respectively of the co-owners of the shop in question and the personal necessity as set-up is not *bona fide*, more so, as Raj Kumar for whom the shop is required is dependent upon his son and daughter-in-law for his needs.

[5] *Per contra*, learned counsel for respondent Nos.1 & 2 contends that the son / husband, respectively of the co-owners of the shop has his own family to support for which he does business in the morning and evening from the shop owned by him, whereas the co-owners (i.e. the wife and daughter-in-law) of the shop in question require the shop owned by them for the *bona fide* personal necessity to enable husband/father-in-law, respectively of the co-owners of the shop to carry on the business of selling consumer goods in view of his being a retired person and that in the circumstances, it is not open to the tenant to dictate the manner or the nature of business to be conducted by the landlord and that too by insisting that the husband/father-in-law of the co-owners should do the business from the shop owned by his son where the son also carries on business.

[6] Learned counsel contends that it is settled law that it is the landlord, who is the best judge of his own need and it is not open to the tenant to dictate terms in respect thereto to the landlord.

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[7] Learned counsel relies upon the decision of Hon'ble the Supreme Court in 'Sarla AhujaversusUnited India Insurance Company Limited', 1998(2) Rent Control Reporter, 533 (SC), to contend that in a petition for ejectment, the landlord is only required to show a *prima facie bona fide* requirement, while in 'Ragavendra KumarversusFirm Prem Machinery and Co.', 2000(1) Rent Control Reporter 135 (SC), it has been held that the landlord is the best judge of his requirement for residential or business purpose. Learned counsel contends that in 'Budh Singh SethiversusRajinder Singh', 1987(1) PLR 200, it has been held that the requirement is to be seen from the landlord's angle and unless some ulterior purpose can be suggested or found, the need would ordinarily be *bona fide* in such cases.

[8] Learned counsel contends that once there are two adult members in the family and one of them namely the son in the instant case is owning his own independent shop and has a family to support, it is for him to see as to in which manner, he is to carry on business in said shop and it is not open to the tenant to contend that the husband/father-in-law of the co-owners of the other shop should carry on business from the same shop which is owned by his son.

[9] I have considered the submissions of learned counsel.

[10] Admittedly, the shop in question, is required for the *bona fide* personal necessity of Raj Kumar i.e. the husband / father-in-law, respectively of the co-owners to enable him to run a consumer goods shop in view of his being a retired person. The mere fact that Raj Kumar for

not imply that the need of Raj Kumar is not genuine or *bona fide* because admittedly Raj Kumar’s son has his own family to look after and further it is conceded that Raj Kumar’s son is carrying on business from the shop owned by him during morning hours as well as in the evening, while during day time, he does business by selling goods as a hawker-salesman. The judgments of Hon’ble the Supreme Court as referred to above are very clear that once the *bona fide* requirement is established, it is not for the tenant to dictate to the landlord as to whether the person for whom the premises are required can do business from elsewhere as it is the landlord who is the best judge of his requirement for residential or commercial purposes. In the instant case, the evidence on record fully establishes the *bona fide* requirement on the part of the co-owners, as well as Raj Kumar and the learned Courts below have accordingly answered the issue in favour of the landlord. No evidence as such has been pointed out for me to take a view different then the view taken by the Courts below. Accordingly, finding no merit in the instant petition, the same is *dismissed*.

[11] All pending civil miscellaneous are disposed of.

(B.S. Walia)
Judge

09.02.2023
'Rajneesh'

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