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

CR-2250-2024

Date of decision: 05.09.2024

Vijay Kumar

...Petitioner

Versus

Mahavir Prashad

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep Kumar Yadav, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. The petitioner-tenant has filed the present revision petition challenging the order dated 30.03.2024 vide which the Appellate Authority, Narnaul had set aside the judgment dated 01.11.2018 passed by the Rent Controller, Narnaul and had allowed the eviction petition filed by the respondent-landlord under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter to be referred as “the 1973 Act”) on the ground of bona fide necessity.

2. Brief facts in the present case are that the respondent-landlord had filed an application for eviction (Annexure P-1) on 17.04.2017 under Section 13 of the 1973 Act, of one shop which was situated at Mohalla Kailash Nagar, Rewari Road, Narnaul, Tehsil



Narnaul, District Mahendergarh. A perusal of the said application for eviction (Annexure P-1) would show that it was the case of the respondent-landlord that the premises in question was let out to the petitioner-tenant vide rent note dated 22.05.1989 at the rate of Rs.300/- per month besides house tax for three months. It was stated that the period of tenancy had already expired and the present petitioner was holding the possession of the shop in dispute as a statutory tenant and that w.e.f. 01.01.2011, the rent payable was Rs.750/- per month with house tax. The eviction of the premises in question was sought on the ground of non-payment of rent from 01.02.2016 to 31.03.2017, on account of personal necessity and also on account of the premises being unfit and unsafe for human habitation, as the present petitioner had made a hole in the ceiling of the shop in dispute and had got installed a dish for TV, as well as on account of the other acts of the petitioner. With respect to the ground of personal necessity, it had been stated that the respondent-landlord had retired from the Indian Air Force in the year 1982 after which he had worked in the private sector and had attained the age of 68 years and could not do any job any further and thus, required the shop in dispute for his own work. It was further stated that the shop in question was 8x10 feet.

3. A reply dated 09.10.2017 (Annexure P-2) was filed by the petitioner-tenant to the said eviction petition and the fact that the respondent had retired from the Indian Air Force and thereafter, had also done a private job for sometime, had not been disputed. The Rent



Controller had dismissed the said eviction petition vide its judgment dated 01.11.2018.

4. Aggrieved against the judgment dated 01.11.2018 passed by the Rent Controller, the respondent-landlord had filed an appeal before the Appellate Authority and the Appellate Authority vide impugned judgment dated 30.03.2024 had allowed the said appeal and had set aside the judgment dated 01.11.2018 passed by the Rent Controller and had directed the present petitioner-tenant to hand over the vacant possession of the demised premises to the landlord within a period of three months from the date of passing of the impugned judgment. The eviction was passed on the ground of personal necessity and while considering the said ground, the Appellate Authority had taken into consideration the plea raised by the landlord, which was supported by his evidence as PW1. The Appellate Authority further took into consideration the cross-examination of the present petitioner-tenant, in which the tenant had stated that he was not aware about whether the respondent-landlord was running the business of property dealing from his house. It was observed that the Rent Controller had primarily rejected the petition of the respondent-landlord on the ground that he had also filed a petition under Section 4 of the Rent Act for fixation of fair rent and thus, the requirement was not bona fide and that the said reasoning was against law, inasmuch as, filing of the petition under Section 4 of the Rent Act for fixation of fair rent was an independent right of the landlord and that enhancement of fair rent could not be made a ground to dismiss the eviction petition, which was filed on



the ground of personal necessity, more so, when in the present case, there is nothing to doubt the personal necessity of the respondent-landlord. It was further stated that the respondent-landlord wanted to start his own business and every senior citizen had a right to live a dignified and respectful life and nobody could force him to be a parasite on his children and that the petitioner-tenant had not adduced any evidence that the respondent herein was owner/landlord of any other shop and that the petitioner-tenant had already utilized the shop in question for the last 35 years and he could not claim his right over the same on flimsy grounds. It is the said judgment of the Appellate Authority which is under challenge in the present revision petition.

5. Learned counsel for the petitioner has submitted that in the present case, the respondent-landlord had filed two petitions simultaneously, one being the present petition for eviction on three grounds, including the ground of personal necessity, and the other petition was filed under Section 4 of the 1973 Act for fixing fair rent. It is submitted that the said fact showed that the requirement of the respondent-landlord was not bona fide as on the one side, he was seeking fixation of fair rent and on the other side, he wanted eviction on the ground of personal necessity and that the Rent Controller had rightly dismissed the eviction petition and the judgment of the Appellate Authority reversing the judgment passed by the Rent Controller is illegal and deserves to be set aside. Learned counsel for the petitioner has submitted that the judgment of the Appellate Authority further deserves



to be set aside, inasmuch as, contradictory grounds have been taken up by the respondent-landlord for seeking eviction of the petitioner-tenant, inasmuch as, at one stage, it had been stated by the respondent-landlord that the property was unsafe and unfit for human habitation whereas at another stage, the respondent was seeking eviction on the ground of bona fide requirement.

6. This Court has heard learned counsel for the petitioner and has perused the paper book.

7. The finding of the Appellate Authority to the effect that the petitioner had retired from the Indian Air Force in the year 1982 and thereafter, had worked in the private sector for sometime and had attained the age of 68 years and that he wanted the shop in question for his own use and was not in occupation of any other similarly situated shop has not been disputed before this Court. Moreover, a perusal of the reply dated 09.10.2017 (Annexure P-2) filed by the petitioner-tenant would show that the aspect of retirement from the Indian Air Force and thereafter, the respondent-landlord having done a private job in the private sector for sometime has not been disputed. The observations of the Appellate Authority to the extent that every senior citizen has a right to live a dignified and respectful life and nobody can force him to be a parasite on his children and that the landlord has a right to start his own business and that the present petitioner-tenant has not adduced any evidence to show that the landlord was the owner of any other shop, have not been shown to be perverse or illegal. Thus, this Court is of the opinion that the



respondent-landlord has prima facie established his bona fide requirement.

8. Argument of learned counsel for the petitioner with respect to filing of the petition under Section 4 of the 1973 Act for determination of fair rent, has been rightly rejected by the Appellate Authority. A Coordinate Bench of this Court in **CR-1978-2006, decided on 17.04.2006** titled as **Punjab National Bank Vs. Ankur Singla and others**, had observed that mere filing of a petition under Section 4 of the 1973 Act for determination of fair rent was not sufficient to draw adverse inference against the bona fide requirement of the landlord. In the said case, similar plea with respect to filing of a petition under Section 4 of the 1973 Act was rejected and after taking into consideration the provisions of the entire 1973 Act, including the provision which entitles a tenant to seek restoration of possession of the premises vacated by him if the landlord fails to occupy the same within 12 months of taking possession, the petition filed by the tenant therein was dismissed. Relevant portion of the said judgment is reproduced hereinbelow:-

“6. As far as bona-fide of the personal necessity of the landlord is concerned, in my view, mere filing of a petition under Section 4 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 for determination of the fair rent of the premises which was rented out in the year 1985, per se, is not sufficient enough to draw an adverse inference against the bona-fides of the landlord. There is not an iota of evidence led by the Bank to show that the landlord has been pressurising the Bank either to increase the rent or to vacate



the premises. On the contrary, the evidence, as discussed by both the Courts, does reveal that the respondent had gone abroad for higher education and on his return, filed the ejectment petition with a specific plea that he wanted to run his own independent business from the demised premises. Be that as it may, under Section 13(6) of the Act of 1973 which entitles a tenant to seek restoration of possession of the premises vacated by him if the landlord fails to occupy the same within twelve months of taking possession, is in itself an in-built safe guard provided for a tenant who has been evicted on a false ground.”

No judgment to the contrary has been cited on behalf of the petitioner.

9. Second argument raised by learned counsel for the petitioner with respect to contradictory grounds taken up by respondent-landlord, is also meritless. In this regard, it is observed that the landlord can seek eviction of the tenant on various grounds mentioned under the 1973 Act. It is a matter of settled law that every ground has to be independently considered on the basis of pleadings and evidence, and the finding with respect to one ground is not binding with respect to the finding on the other ground. It is further a matter of settled law that merely because the landlord has not been able to prove one ground or withdraws one ground, the same would not be a ground to reject the other ground. In the present case, as has been fairly submitted by learned counsel for the petitioner, the ground with respect to the premises being unfit and unsafe for human habitation has not been pressed by the landlord, as is apparent from the

observations made in para 19 of the judgment of the Appellate Authority and even otherwise, the Appellate Authority, on the basis of the evidence on record, has come to the conclusion that there is nothing on record to show that the property in question is unsafe and unfit for human habitation. As per the settled law, the plea of bona fide requirement is required to be independently seen and the same has been independently seen and the Appellate Authority has rightly come to the conclusion that the said ground is made out and has rightly passed the eviction order on the said ground.

10. Keeping in view the abovesaid facts and circumstances, the judgment dated 30.03.2024 passed by the Appellate Authority, Narnaul is in accordance with law and the same deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

05.09.2024
Pawan

(VIKAS BAHL)
JUDGE

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

Whether reportable:- **Yes/No**