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Court : Punjab and Haryana

Decided On : Apr-27-2005

Reported in : (2005)140PLR859

Judge : Ashutosh Mohunta, J.

Acts : [East Punjab Urban Rent Restriction Act, 1949](#) - Sections 13; Code of Civil Procedure (CPC) - Order 41, Rule 27

Appeal No. : Civil Revision No. 675 of 2001

Appellant : Ashwani Kumar and ors.

Respondent : Pardeep Kumar and ors.

Advocate for Def. : J.R. Mittal, Sr. Adv. and; Kashmir Singh, Adv.

Advocate for Pet/Ap. : Amarjit Markan, Adv.

Disposition : Petition dismissed

Judgement :

Ashutosh Mohunta, J.

1. The tenants have filed this revision petition to challenge the order dated 14.2.1995 passed by the Rent Controller, Malerkotla, ordering the ejectment of the tenants on the ground of personal necessity of the landlord, and judgment dated

6.10.2000 passed by Appellate Authority, Sangrur, whereby the appeal filed by the tenants has been dismissed.

2. Succinctly, the respondent-landlords filed a petition under Section 13 of the [East Punjab Urban Rent Restriction Act, 1949](#) (for short 'the Act') for ejectment of the tenants from upper storey, i.e. two rooms staircase etc. on the grounds of non-payment of rent, the premises have become unfit for human habitation on account of its dilapidated condition, material impairment on the part of the tenants, as well as personal requirement of the landlords. After examining the evidence adduced on record, the Rent Controller, Malerkotla, vide order dated 14.2.1995 ordered the ejectment of the tenants on the ground of personal necessity of the landlords, whereas all other issues framed on the grounds taken by the landlord were found to have not been proved. The appeal filed by the tenants was dismissed by the Appellate Authority, Sangrur, vide judgment dated 6.10.2000. Now the tenants have filed the present revision petition to challenge their ejectment from the demised premises on the ground of personal necessity.

3. The primary contention raised by the learned counsel for the petitioners is that the respondents had purchased three residential properties subsequent to the filing of the present petition for ejectment. The counsel has placed on record three sale deeds Annexure P-1, P-2, and P-3 by filing CM. No. 2193-CII of 2001 under Order 41, Rule 27, C.P.C. It has further been contended that Smt. Sheela Devi, mother of the respondents, purchased 53 sq. yards plot vide registered sale deed dated 28.12.1992 adjoining to their residential house. A certified copy of the sale deed was placed on record as Ex.RW-5/A before the Rent Controller. Subsequently, a residential house was constructed thereon by the respondents. A residential house measuring 51 sq. yards was purchased vide sale deed dated 16.11.1998. Smt. Sheela Devi, mother of the respondents, had purchased two properties about 99 sq. yards and 10 sq. yards vide registered sale deed dated 16.11.1998 and the same are adjacent to their ancestral residential house. The Courts below have failed to take notice of the subsequent developments having taken place in the position of the landlords. It has further been contended by the learned counsel for the petitioners that two sisters of the respondents have got married and are residing with their in-laws. The counsel contends that the

respondents are residing in the ancestral house along with their father. The ancestral house is a spacious house, admittedly, consisting of three rooms with kitchen, one store and bath room on the ground floor and three rooms and one bath room on the first floor. Further, it has been contended by him that Manoj Kumar respondent has been posted as Principal of I.T.I. College, Sunam, and he is residing there along with his family. Thus, it has been contended that there is no bona fide requirement of the landlords for the two rooms in occupation of the tenants. In support of his contention Mr. Amarjit Markan has placed reliance on T. Sivasubramaniam and Ors. v. Kasinath Pujari and Ors., (1999)⁷ Supreme Court Cases 275: Korah Abraham v. Varughis, 2004(2) Rent Law Reporter 418; Manpreet Arora v. Jagan Nath, 2000(1) R.L.R. 111: Ram Narain Arora v. Asha Rani and Ors., 1999 Haryana Rent Reporter 42.

4. In order to controvert the contentions raised by the learned counsel for the petitioners, Mr. J.R. Mittal, learned Senior Advocate, appearing on behalf of the respondents, has contended that the landlord is the best judge of his own requirements. The tenant is nobody to dictate him way to live. It has been contended by him that the respondents, who are three brothers have got their children. The two sisters, who are also married have got children too with them. They often use to visit their parental house at Malerkotla. It has further been contended that Manoj Kumar respondent is posted as Principal, I.T.I., Malerkotla. His family is residing at Malerkotla in the house of his father Ram Gopal.

5. The main stress of Mr. Amarjit Markan, learned counsel for the petitioners, is that the respondents had during the pendency of the litigation purchased three properties and all of them are living alongwith their parents in the ancestral house. It has also been contended that the two sisters of the respondents have got married and are living in their in-laws house. Thus, the counsel contends that the landlords do not require the demised premises for their personal need. However, I do not find any merit in the contentions raised by the learned counsel for the petitioners. A look at the properties purchased by the respondents would show that these are of very small sizes. Anil Kumar respondent purchased a house measuring 51-1/3 sq.yards on 2.11.1998. Mr. Ram Gopal, father of the respondents, purchased on room of the size of about 10 sq. yards on 2.11.1998.

The third property, which has also been purchased by said Ram Gopal is of the size of about 100 sq. yards. Thus, these properties are of very small sizes.

6. On the other hand, there has been substantial increase in the members of the family of the landlords during the pendency of the ejectment petition against the petitioners. Manoj Kumar respondent has got himself married and two children have born out of the wed-lock. He is posted as Principal of the Industrial Training Institute at Malerkotla. Similarly, Pardeep Kumar respondent has also got himself married. He might also have got children out of the wedlock. The third respondent Anil Kumar is also married and is a practicing lawyer at Malerkotla. His wife is also a lawyer and is practising in District Courts, Sangrur. The two sisters of the respondents, namely, Ms. Narinder Gupta and Ms. Anita Gupta are also married and have got children. Thus, a look at the size of the family of the respondents would show that its size has grown manifolds during the pendency of litigation between the parties. The contention of Mr. Amarjit Markan, learned counsel for the petitioners, that with the marriage of two sisters of the respondents, the size of the family stood reduced, does not hold good. When the sisters visit the respondents and their parents at Malerkotla, alongwith their husbands and children, the need for more accommodation gets increased. In the present set up of society, everyone wants privacy and separate accommodation when he or she visits his or her close relations. In the case reported as Surjit Singh v. Hazara Singh and Anr., (2000-2)125 P.L.R. 149 it has been held by the Court that accommodation for married daughters is a bonafide requirement. This requirement cannot be said to be frivolous. Similarly, in Satya Wati v. Mahadev Ramaji Patil, (2003-1)133 P.L.R. 124, it has been held by this Court that the subsequent event about the growing age of children is definitely to be taken into account while deciding the present revision petition. In the present case the demised premises were taken on rent by the petitioners from Borian Mal, grand father of the respondents, at a monthly rent of Rs. 20/- somewhere in the year 1980. Said Borian Mal died on 28.7.1986 and the suit property came to be inherited by the respondents on the basis of registered Will dated 16.4.1980. The present ejectment petition was filed by the respondents in the year 1988. At that time all the three respondents were unmarried and were residing with their parents in the ancestral house. During this long spell of time all the three have got married and have their separate families

and it is difficult for them to live in the ancestral house under one roof, howsoever, big the house may be.

7. Moreover, we can also not ignore the status of the family of the landlords. Manoj Kumar respondent is stated to be the Principal of the I.T. Lat Malerkotla itself. Anil Kumar respondent is a practising lawyer at Malerkotla. His wife is also practising lawyer at Sangrur. The third landlord Pradeep Kumar is also well settled. All the three brothers need accommodation in accordance with their social status, which factor cannot be ignored by any stretch of imagination. All of them need separate rooms for the studies of their children, separate rooms for the guests, separate bed-rooms and dining rooms etc. By keeping in view the said requirements, according to the social status of the family, it is difficult to hold that with the purchase of three properties of small sizes and also with the marriage of the sisters of the respondents, the requirement of the family for accommodation has diminished.

8. Lastly, it would not be out of place to observe that the landlord is the best judge of his own requirements. It has been so held by the apex court in numerous authorities. The tenant cannot dictate him the way how to live. It is for the landlord himself to see as to what accommodation is needed by him and his family.

9. In the light of the above discussion, I do not find any infirmity in the well-reasoned judgments passed by both the Courts below.

10. Consequently, I see no merit in this revision petition. It is accordingly, dismissed. However, I do not make any order as to costs. The petitioners are directed to hand over the vacant possession of the demised premises to the landlords on or before June 30, 2005