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Court : Punjab and Haryana

Decided On : Feb-26-1991

Reported in : (1991)99PLR483

Judge : J.V. Gupta, C.J.

Acts : Haryana Urban (Control of Rent and Eviction) Act, 1974 - Sections 13 and 15(6)

Appeal No. : Civil Revision No. 3193 of 1987 and CM No. 954-CII of 1991

Appellant : Vinod Kumar

Respondent : Harbans Singh

Advocate for Def. : Gurmeet Singh, Adv.

Advocate for Pet/Ap. : H.L. Sarin, Sr. Adv.,; Ashish Handa and; Meet Malhotra

Disposition : Petition allowed

Judgement :

J.V. Gupta, C.J.

1. This is landlord's petition whose ejectment application has been dismissed by both the Courts below. Landlord Vinod Kuirar sought the ejectment of his tenant Harbans Singh from the denised premises on the ground that he bona fide

required the same for his own occupation as he had entered matrimonial life and had also become a practising lawyer. At present he was residing in a house of his brother who wanted him to vacate those premises. Moreover, the present accommodation with him consists of four rooms and is not sufficient for the use of aged grand father, parents and five brothers, out of whom two are getting married shortly. The ejectment application was tiled on 7-8-5982 It was also averred that the tenant owns a house in village Shamshahad and he resides there only and he had let out a residential he use in Sirsa town to Income-tax Department, In the written statement, the tenant denied the allegations made in the petition. It was alleged that the accommodation available with the landlord was sufficient for his purpose. The learned Rent Controller found that the landlord has failed to prove his bona fide requirement in respect of demised premises for his personal necessity, especially when he was occupying two rooms man adjacent residential building let out to Rajindeir Singh Consequently., ejectment application was dismissed, In appeal, the Appellate Authority affirmed the said findings of the Rent Controller end thus maintained the order rejecting the application According to the Appellate Authority, Rekesn. Kumar the brother of the landlord, was the only person who could state his inclination to get the premises vacated and since he was not produced the requirement of be landlord was not proved. During the tendency of this petition, the landlord moved C. M. No. 954-CII of 1991,' which was ordered to be heard alongwith the main case Therein it was stated that during the pendency of this petition, the tenant had purchased a house in Chandigarh for a consideration of Rs. 4.00,000/. and he was residing no more in need of the demised premises at Sirsa In the reply filed on behalf of the tenant to the said application, it was admitted that ha had purchased a house at Chandigarh worth Rs. 4, 00000/-, but according to the tenant, the said house was purchased for his son who was residing in Chandigarh but he was still staying at Sirsa and was occupying the demised premises.

2. The learned counsel for the petitioner submitted that the view taken by the autrorities below was wholly wrong and erroneous. The decree by virtue of which the demised premises had fallen to the share of the landlord is dated 18.2.1970, copy Exhibit P 3,whereas the present ejectment application was filed in the year 1982. Thus, argued the learned counsel, in these proceedings, the said decree

could not be held to be mere paper transaction at the instance of the tenant. It was contended that the application was filed when the landlord was married and had entered into practice. Thus the requirement was most bona fide. He also pointed out that the tenant is residing in a village near Sirsa and he has already rented out his own house to the Income-tax Department and also purchased a building in Chandigarh during the pendency of this petition. Thus, argued the learned counsel, in these circumstances, requirement of the landlord was most bonafide. He also submitted that this was the oily residential house owned by the landlord and, therefore, he was entitled to evict the tenant. In support of his contention he referred to *Anandloyee Ammal v. S. M Khaja & Co.*, by partner Seedi Mohamtd, 1967 (I) Mad L. J. 368. *Dr. Bhim Sain v. Sont Lal*, 1987(1) Rent L. R. 381. *Shri Ashok Kumar v. Smt. Indra Devi*, 1984 (2) Rent C. R. 244 and *Smt. Chandra Wati v. Narain Dass*, (1970) 72 P. L. R. 299. On the other hand, the learned counsel for the tenant respondent submitted that the requirement of the landlord was not bonafide as he has already sufficient accommodation in his occupation. According to the learned counsel, it was not the comfort of the landlord to be seen but his bonafide requirement is to be looked into. In support of his contention, he referred to *Smt. Sushila Devi and Ors. v. Avinash Chandra Jain and Ors.*, 1987 (1) Rent C. R. 252. *Arnarjit Singh v. Smt. Khatoon Quamaritin*, 1987 (1) Rent C. R. 192. and *Ramesh Kumar v. Raj Paul*, 1980 (2) Rent L. R. 377.

3. After hearing the learned counsel for the parties and going through the case law cited at the bar, I am of the considered view that the whole approach of the authorities below was illegal and improper. The demised premises had fallen to the share of the landlord Vinod Kumar, by virtue of a decree suffered by the father on 18-2-1970 Copy Exhibit P-3. He filed the present petition for ejectment in the year 1982, when he was married and had entered into legal profession, under these circumstances it could not be held that the said decree was a mere paper transaction and the landlord was not the owner thereof. The mere fact that the demised premises were not entered in the Property tax record in favour of the landlord was no ground to reject the decree. Once it is so found that the house in dispute has fallen to the share of the landlord, then he was entitled to seek ejectment of his tenant from the demised premises as it was only a house owned by him. The present accommodation was not only insufficient but he was living with

his brother in the house owned by him. After marriage. he was entitled to live separately in his own house. In Smt. Sushila Devi's case (supra), the authority cited by the learned counsel for the respondent, it was held by the Supreme Court that the Court has to strike a just balance between competing needs of the landlord and tenant. In the present case, the balance is in favour of the landlord, since the demised premises are the only house owned by him whereas the tenant has got another building at Sirsa rented out to the Income-Tax Department and he has also purchased a house at Chandigarh during the pendency of this petition. Moreover, he has got a house in the village near Sirsa where according to the landlord, he was residing. Thus, taking into consideration all the facts and circumstances of the case, the need of the landlord was most bonafide to occupy his own house after entering into marriage and the profession of law. Consequently, this petition succeeds, the impugned orders are set aside and eviction order is passed against the tenant to vacate the demised premises. However, the tenant is allowed three months' time to vacate the demised premises provided all the arrears of rent upto date are deposited with the Rent Controller within one month with a further undertaking in writing that after the expiry of the said period vacant possession will be handed over to the landlord.