

(1989) 05 P&H CK 0007

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 2781 of 1988

Dr. (Mrs.) Maninder Ahuja

APPELLANT

Vs

Smt. Lila Devi

RESPONDENT

Date of Decision: May 24, 1989

Acts Referred:

- Haryana Urban (Control of Rent and Eviction) Act, 1973 - Section 13

Citation: (1989) CivCC 505 : (1989) 2 RCR(Rent) 153

Hon'ble Judges: J.V. Gupta, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

J.V. Gupta, J.

This petition is directed against the order of the Appellate Authority. Faridabad, dated 26.10.1988 whereby in the appeal the landlord was allowed to amend his ejectment application, by pleading the necessary ingredients of Section 13 of the Haryana Urban (Control of Rent and Eviction) Act and also to plead the fact that the landlady has to vacate the house occupied by her at Faridabad under the compelling circumstances and at present she is temporarily residing with her son-in-law as he is posted as Sub-Divisional Officer, Public Health. Since the landlady has no house to reside, she had to take shelter in the house of her son-in-law.

2. The Learned Appellate Authority directed the Rent Controller to permit the landlady to amend her ejectment application and an opportunity to be given to the tenant to file reply thereto and after evidence is produced, he will hear arguments and prepare a report to be sent to that court.

3. The Learned Counsel for the tenant-petitioner submitted that the said amendment could not be allowed by the Appellate Authority in appeal. He particularly objected to the amendment whereby the landlady stated that at present she was temporarily residing with her son-in-law at Faridabad and she had no house

to reside therein otherwise. This according to the Learned Counsel is against the finding of the rent controller and, therefore, the landlord could not be allowed to wriggle out from that finding by way of amendment. In support of his contention, he relied upon Gopi Chand v. Doctor Kanwar Pal Singh 1986 HRR 456.

4. After hearing the Learned Counsel for the parties, I do not find any impropriety or illegality in the impugned order as to interfere with in the revisional jurisdiction. The application for ejectment was filed in the year 1984 on the ground of personal necessity. Already a period of 5 years has passed but still the matter is at the appellate stage. The landlady will be entitled to eject the tenant if the requirements of the statute are proved. The subsequent events, if any, can always be pleaded and taken into consideration by the authorities under the Act. That being so, there is nothing wrong or illegal in the impugned order as observed earlier. Consequently, the petition fails and is dismissed with no order as to costs.

5. Since further proceedings were stayed by this Court at the time of motion hearing, the parties are directed to appear before the Learned Rent Controller on 8.6.1989.