

(1985) 08 P&H CK 0007

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1128 of 1985

Harivansh Singh

APPELLANT

Vs

Malook Singh, etc

RESPONDENT

Date of Decision: Aug. 9, 1985

Citation: (1986) 2 RCR(Rent) 92 : (1986) 1 RCR(Rent) 287

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

Bench: Single Bench

Advocate: M.L. Sarin, for the Appellant; N.C. Jain with Mr. V.K. Jain, for the Respondent

Final Decision: Dismissed

Judgement

J.V. Gupta, J.

This is tenant's petition against whom eviction orders have been passed by both the Courts below.

2. The landlord sought the ejectment of his tenant from the residential building which was let out to him in the year 1970 at a monthly rent of Rs. 50/- which rent was later on increased to Rs. 75/- on the ground of bonafide requirement for his own use and occupation. The landlord purchased the said house in the year 1957. According to the allegations in the ejectment application, landlord suffered heart-attack in January, 1979. It was pleaded that he was suffering from heart-ailment and he was not in occupation of any other residential house in the urban area concerned, nor has he vacated any after the coming in to force of the East Punjab Urban Rent Restriction Act (hereinafter called the Act). The tenant contested the landlord's claim and denied if his requirement was bonafide. On the other hand, he pleaded that the landlord intends to sell the premises in dispute after its vacation. He alleged that many customers visited the demised premises with the intention to purchase it, but the deal could not be finalised and that the landlord has been compelling the tenant to vacate the premises. He further alleged that the landlord is a very rich person and is living in a posh bungalow with all modern amenities in a nearby village whereas the premises in dispute is an old construction which does not even have the basic

amenities.

3. The learned Rent Controller found that the landlord bonafide required the premises in dispute due to his illness and consequently, the eviction order was passed. In appeal, the learned Appellate Authority affirmed the said findings of the Rent Controller. The learned Appellate Authority specifically repelled the contention of the tenant that the landlord wanted to sell the premises in dispute. It was observed that the allegation of the intention to sell the premises in dispute by the landlord "appears to be coined as a plea against the bonafide requirement of the landlord for use and occupation of the disputed house." Dissatisfied with the same, the tenant has filed this petition in this Court.

4. The learned counsel for the petitioner contended that the landlord has failed to prove his bonafide requirement. It was a case of mere desire and not of bonafide requirement. It was further contended that illness by itself is not a ground to seek ejectment. In support of his contention, he relied on *Sh. Rattan Chand Jain v. Sh. Charan Singh* 1978 (1) R.L.R. 265, and *Ram Lal Sunda and others v. Santosh Kumari Sood* (1980) 82 P.L. R. 459. It was further contended that according to the landlord, he suffered heart attack in January, 1979, whereas the present ejectment petition was filed on 7th August, 1982, that is, after 21/2 years and that being so, the requirement could not be held bonafide. It was further argued that the landlord is admittedly in occupation of a posh bungalow, just at a distance of 4 1/2 Kilometers from the city of Hoshiarpur where he has got all the modern amenities including a telephone. In these circumstances, the requirement to shift from that Bungalow to the present demised premises was not bonafide.

5 After hearing the learned counsel for the parties, I do not find any merit in this petition. It will be a question of fact in each case. On appreciation of the entire evidence, both the authorities below have found that on account of heart ailment, the requirement of the landlord to shift to the demised premises was most bonafide. It has come into evidence of the tenant himself that the medical facilities are near to the demised premises than from the house where the landlord is residing. The mere fact that the house in dispute was an old one and modern amenities were not there, is no ground to doubt the bonafide requirement of the landlord. The landlord will make the house comfortable when he gets its occupation. It is in the evidence that in January, 1979, the landlord suffered heart attack. There is no rebuttal to this evidence. Of course the landlord did not suffer any heart attack after that, but that does not mean that he is not a heart patient. His desire to shift to the demised premises, since the medical facilities are available there, appears to be bonafide on the facts and circumstances of the present case. The authorities relied upon by the learned counsel for the petitioner have absolutely no applicability to the facts of this case and are clearly distinguishable. Moreover, as observed earlier, it will be a question of fact to be determined in each case. It may be that mere ill-health is no ground but in the present case, it is not ill-health alone, but the

landlord is suffering from heart ailment and already he got an heart attack in January, 1979 and he need not wait for the second time in order to seek ejectment of his tenant. Under the circumstances, there is no impropriety and illegality with the concurrent findings of the Courts below.

6. Consequently, the petition fails and is dismissed with costs. How ever, the tenant is allowed three months" time to vacate the premises provided all the arrears of rent, if any, and advance rent for three months are deposited with the Rent Controller with in one month, with a further undertaking in writing that after the expiry of the said period, the vacant possession will be handed over to the landlord.