

Manoj Kumar Vs Smt. Anuradha Bhardwaj and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: March 25, 2011

Acts Referred: Haryana Urban (Control of Rent and Eviction) Act, 1973 â€” Section 13

Hon'ble Judges: Rakesh Kumar Jain, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Rakesh Kumar Jain, J.

The tenant is in revision against the order of eviction passed by the learned Appellate Authority while reversing the order of the learned Rent Controller.

2. The landlords filed eviction petition u/s 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 [for short "the Act"] for seeking

eviction of the tenant from House No. 4492/1-4, Bajaja Mohalla, Ambala Sadar, Ambala Cantt. consisting of one room let out @ Rs. 400/- per

month besides municipal tax @ 5% per month, inter alia, on the ground of personal necessity. The learned Rent Controller dismissed the eviction

petition on the ground that though the landlords had required the demised premises for their own use and occupation but it was found to be their

greed and not the need. However, learned Appellate Authority reversed the order of the learned Rent Controller by observing as under: -

20. The contention of the Respondents that the Petitioner failed to prove his Degree in Plastic Technology, is also not tenable because the

Petitioner proved the copy of Diploma Certificate Ex.PW1/6 which proved that Shri Jai Vardhan, grandson of Petitioner Shri Ram Dass (since

deceased), has passed the Diploma Course of Instructions in Plastic Technology. The contention of the Respondents that the Petitioners are having

other shops in the main mohalla in possession of other tenants, is also not tenable because it has been held by the Hon"ble Punjab and Haryana

High Court in case of Yash Pal Juneja v. Satish Kumar Sandooja 2009 (1) RCR 420, that even if an alternative accommodation is available, it is

for the landlord to decide as to how and in what manner he should fulfill his requirements. The tenant can not dictate terms to his landlord as to

how the latter can adjust him without asking for eviction of the tenanted premises.

21. Perusal of the evidence on the record shows that there was sufficient evidence to prove that Shri Jai Vardhan, grandson of the Petitioner Shri

Ram Dass (since deceased), has passed Diploma Course in Plastic Technology and he requires the premises in dispute for starting his business of

plastic technology. The learned Rent Controller wrongly held that the Petitioners failed to prove the Degree in Plastic Technology because the

Diploma Certificate in plastic technology in the name of Sh. Jaiwardhan Bhardwaj was on the file. Therefore, it is concluded that the finding of the

Rent Controller on Issue No. 3 is illegal and is liable to be set aside.

3. Learned Counsel for the Petitioner has submitted that the demised premises is a part of residential building, therefore, it cannot be got vacated

for non-residential purposes, but this assertion has been dealt with by the learned Appellate Authority by observing that the tenant himself admitted

in para No. 5 of his written statement that it is not a residential building and rather it is a godown. It was observed that since the tenant is using the

demised premises for non-residential purposes, therefore, he cannot say that the demised premises is a residential building and cannot be got

vacated.

4. I fully agree with the observation of the learned Appellant Authority and do not find any reason to disturb the order of eviction. Hence, the

present revision petition is found to be without any merit and is, thus, dismissed.

No costs.