

(1987) 01 P&H CK 0010

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Revision No. 1450 of 1986

Nathia Devi

APPELLANT

Vs

Nand Kishore and Others

RESPONDENT

Date of Decision: Jan. 30, 1987**Citation:** (1987) 1 RCR(Rent) 673**Hon'ble Judges:** J.V. Gupta, J**Bench:** Single Bench**Advocate:** C.B. Goel, for the Appellant; V.K. Bali, for the Respondent**Final Decision:** Dismissed

Judgement

J.V. Gupta, J.

This is landlady's petition whose ejectment application has been dismissed by both the authorities below.

2. Originally, Man Singh etc. were the owner-landlords of the premises in dispute. They sold the same vide registered sale deed dated 14-7-1982 to Smt. Nathia, who became its owner-landlady qua the tenant Nand Kishore. The house in question bearing No. 1006 consists of four rooms, a Verandah and Kitchan etc. At the time of sale deed, it was being occupied by four tenants. The landlady filed the present ejectment application on 21-5-1983, inter alia, on the grounds that she bona fide required the premises for her own use and occupation. At present her family consists of eleven members which also includes the family of his one married son. At present she was in occupation of only one room which was not sufficient for her accommodation. The tenant Nand Kishore is in occupation of two rooms. In the written statement, the tenant denied the relationship of landlord and tenant between the parties. He further pleaded that the accommodation already available with the landlady is sufficient for her and other members of her family and in any case, she has many houses in Karnal. So the petition is mala fide.

3. The learned Rent Controller found that the landlady has failed to prove that she bona fide required the premises for her own use and occupation. In appeal, the said finding of the learned Rent Controller was maintained. According to the Appellate Authority, "it is note worthy that in spite of the size of the family which as per the own showing of the Petitioner is eleven members, she has been pulling on in one room in which her married son and his wife also reside. From this it necessarily follows that they had so adjusted themselves that they did not feel inconvenience in a single room." Dissatisfied with the same, the landlady has filed this petition in this Court.

4. Learned Counsel for the Petitioner submitted that keeping in view the number of the members of the family and the present accommodation in occupation of the landlady, her requirements was bona fide. According to the learned Counsel, as a matter of fact, for having comfortable living, she purchased the house in dispute in July, 1982. At the time of sale, she was residing in one rented room. Lateron, two rooms were vacated by two tenants in the house in dispute which were occupied by her and she is now in occupation of two rooms vacated by Thakar Dass and Ram Parshad tenants. On the other hand, the learned Counsel for the tenants submitted that she has got other houses also in the urban area concerned, rather she is in the habit of purchasing houses and selling the same subsequently.

5. After going through the evidence on the record, I find that whole approach of the authorities below is illegal, improper and misconceived. When the landlady appeared in the witness box, no question was put to her as to whether she owns or possesses any other property in the urban area concerned. When the tenant appeared in the witness box, though he stated that there are three/four houses, but he was unable to give their numbers Thus, there is absolutely no evidence on the record that the landlady owns or possesses any other house except the house in dispute. Once it is so found then her requirement to eject her tenant Nand Kishore was quite apparent. Her family consists of eleven members including the family of her married son. The observation of the learned Appellate Authority that since earlier the landlady was living in one room and did not feel inconvenience and has thus, adjusted herself was wholly, improper and misconceived. Admittedly, with the passage of time, the children have grown up and they require more space. Moreover, even if earlier they were living in one room that did not mean that they must continue in that situation for all times to come. She purchased that house for her comfortable living and was thus, entitled to seek ejectment of her tenants for her bona fide requirement

6. Another ground taken by the learned Appellate Authority was that the landlady has not occupied the portion vacated by Thakar Dass and Ram Parshad tenants. This fact is not borne out from the record, rather the landlady as A.W. 5 has categorically stated that she has occupied the same during the pendency of this petition. Thus, the said finding is against the evidence on the record. Consequently, this petition

succeeds The impugned orders are set aside and an eviction order is passed against the tenant Nand Kishore and his son Jagdish, with costs.

7. However, the tenants are allowed three months time to vacate the premises provided an undertaking in writing is given before the Rent Controller that after expiry of the said period, the vacant possession will be handed over to the landlady and the rent for the said period would be paid/deposited in advance by the 10th of every month.