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(2006) 07 P&H CK 0233

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Dr. Sat Pal Behal	APPELLANT
Vs	
Kamla Rani alias Kamlesh Rani	RESPONDENT

Date of Decision: July 21, 2006

Citation: (2008) 149 PLR 531 : (2008) 1 RCR(Civil) 2 : (2007) 2 RCR(Rent) 641

Hon'ble Judges: Mahesh Grover, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Mahesh Grover, J.
This is the tenant''s revision petition. The petitioner is aggrieved by the orders passed by the Courts below whereby the ejectment petition filed by the respondent-landlady has been accepted and he has been directed to vacate the tenanted premises comprising two rooms with open space which are part of property bearing No. B-XIII. 1455, Karimpura Bazar, Ludhiana.

2. The respondent had purchased property No. B-XIII. 1455 measuring 82 square yards from one Prem Chand son of Madhu Ram vide registered sale deed dated 172.1989 for her own residence and for the residence of her children. The petitioner and one Baldev Raj (since deceased)were having separate tenancies on the property in question at the rate of Rs. 140/- per month with house tax at the rate of 15%. The respondent-landlady filed a petition in the year 1993 for ejectment of the petitioner on the ground of non-payment of rent w.e.f. 17.2.1989 at the rate of Rs. 140/- per month along with house tax at the rate of 15% and also on the ground of personal necessity as she required the premises for her use and for the use of the members of her family.

3. The petitioner contested the ejectment petition and prayed for its dismissal on various grounds including the one that the respondent''s necessity is not bona fide.

4. After taking evidence of the parties and hearing the learned Counsel, the Rent Controller, Ludhiana allowed the ejectment petition of the respondent and ordered eviction of the petitioner.

5. In appeal, the learned Appellate Authority, Ludhiana affirmed the findings of the Rent Controller.

6. Shri M.L. Saggar, learned Counsel for the petitioner contended that the need of the respondent has not been established and that she is a big landlady. He further contended that the property in question is a huge property which has been purchased vide three separate sale deeds which are on record as Exhibits P2, P3 and P4. Shri Saggar argued that the need of the respondent was not genuine as she was residing in Kucha No. 11, Field Ganj, Ludhiana and it has come in evidence that she has not separated from in-laws, who are staying there. It has been contended that one room out of the tenanted premises which was in the occupation of Baldev Raj, deceased, was taken by the respondent, but the same was not occupied which shows that the need is not bona fide.

7. I have thoughtfully considered the contentions of the learned Counsel and find myself to be unable to agree with him. The respondent had stepped into the witness box as AW4 to support her version that she does own or possess any other property within the Urban Estate of Ludhiana nor has she vacated any property; that she needs the premises in question for her family which comprises her husband, three grown up children, who are studying; that they have no study room dining room and that her father-in-law and mother-in-law are residing with them. It is common knowledge that a landlord has every right to be comfortable in the property which he or she has purchased with open eyes. The landlords spends huge amount of money on buying some property which obviously is purchased by getting his needs in mind. He, therefore, has every right to utilize that property fruitfully and live comfortably and he cannot be compelled to sacrifice his comforts for the need of the tenant. It has been held by the Supreme Court in Siddalingamma and Another Vs. Mamtha Shenoy, that "if the landlord wishes to live with comfort in a house of his own, the law does not command or compel him to squeeze himself and dwell into lesser premises so as to protect the tenant"s continued occupation in tenancy premises." It has been further held by their Lordships that" the question to be asked by trial Judge of facts, by placing himself in the place of the landlord, is, whether in the given facts proved by material on record the need to occupy the premises can be said to be natural, real, sincere, honest? If the answer be in the positive, the need is bona fide."

8. In view of the law laid down by the Supreme Court in Siddalingamma v. Mamtha Shenoy (supra) and the facts of the instant case, the argument of the learned Counsel for the petitioner that the respondent is a big landlady and does not require the premises in question is, therefore, held to be devoid of any merit. The tenanted premises itself is only 82 square yards which cannot be said to be a huge property by any stretch of imagination. Even otherwise, it is sufficient for the landlord to express his desire to

occupy the demised premises for his need as the landlord is the best Judge for his own necessity and the tenant cannot question the bona fide requirement of the landlord.

9. The Division Bench judgment of Delhi High Court in the case reported as 1996(1) R.C.R. 359 (Del) Mrs. Meenal Eknath Kshirsagar Vs. M/s. Traders and Agencies and another, Meenal Eknath Kshirsagar (Mrs.) v. Traders and Agencies are to the effect that the tenant cannot regulate the requirement of the landlord. Prof. D.N. Jauhar in his book "Rent Matters on Trial" which is based on empirical research carried in U.T., Chandigarh, has observed in this regard as under:

Thus the settled position about the need of the landlord as seen above, is that he requires the residential building for his own purposes and this also includes the requirement of his family members. It is not necessary that the members of the family must be dependent upon him. Keeping in view the needs of the members who ordinarily live with him or want to live with him, the requirement of the landlord shall be accepted as bona fide. But neither the Courts have a right to tell the landlord that if they were in his position this is what they will or will not do nor it is the right of the tenant to tell the landlord as to how and where he should live.

10. On the basis of the above discussion, it is held that the revision petition deserves to be dismissed being devoid of any merit.

At this stage, learned Counsel for the petitioner submitted that the petitioner and his wife are old people and would require some time to vacate the premises. He, therefore, prayed that some reasonable time may be given to the petitioner to vacate the tenanted premises. Since the petitioner is in occupation of the property in question for the last many years and it would take some time to find an alternate accommodation, the prayer made by the learned Counsel appears to be genuine.

11. In the result, the revision is dismissed. However, the petitioner is given time to vacate the premises in question within six months from today i.e. upto 31.1.2007, subject to the condition that he furnishes an undertaking to vacate the premises on or before the above stipulated period before the Executing Court within one month from today.