

Before Augustine George Masih, J.

GURINDER SINGH—Petitioner

versus

JASBIR SINGH—Respondent

CR No.8478 of 2016

December 16, 2016

East Punjab Urban Rent Restriction Act, 1949—S.13—Old age of the landlord cannot be a pretext to judge his bonafide needs—Landlord is the best judge of his needs—Cannot be doubted or dictated by the tenant—Separate eviction petition qua other shops also depicts bonafide—Petition stands dismissed.

Held that, that the petitioner, apart from the demised premises, has three vacant shops in his possession, there is no evidence to that effect on record to substantiate his assertion, therefore, his plea is outrightly rejected.

(Para 4)

Further held that, that the respondent-landlord is of 74 years of age and not keeping good health and has a failing eyesight, that also cannot be a ground for judging the *bona fides* of a landlord.

(Para 5)

Further held that, that the landlord is the best judge of his needs which cannot be doubted nor can the tenant dictate his terms with regard to the suitability of the accommodation. The requirement of the landlord has to be seen in the perspective of the landlord and not from that of the tenant.

(Para 6)

Further held that, the findings, therefore, as recorded by the authorities below being based upon proper appreciation of the pleadings and evidence brought on record, do not call for any interference by this Court in exercise of its revisional jurisdiction.

(Para 7)

Further held that, the present petition, therefore, stands dismissed.

(Para 8)

Jatinder Kumar Puri, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. oral

(1) The present petition has been filed assailing the order dated 09.03.2016 passed by the Rent Controller, Fatehgarh Sahib, whereby a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, for ejection of the petitioner from the demised shop, has been allowed, appeal against which preferred by the petitioner stands dismissed by the Appellate Authority, Fatehgarh Sahib, on 21.09.2016.

(2) It is the contention of learned counsel for the petitioner that the respondent is 74 years of age and is not keeping good health. Even his eyesight is failing him and, therefore, the necessity which has been projected by him to start a large scale *karyana* shop in the demised premises along with the other shops, appears to be only a pretext to seek eviction of the petitioner from the demised shop. He further contends that he has three other shops which could have been easily utilised by the respondent for starting his business of *karyana*. That apart, he contends that the respondent has two sons, who are settled along with their families in United States of America and are well of there and have permanent residency. Since they are happily residing abroad, there is no possibility of his sons coming and joining the business at a later stage, as has been asserted by the respondent-landlord. He, thus, contends that the orders passed by the authorities below cannot sustain and deserve to be set aside for the simple reason that the respondent-landlord has not been able to establish the *bona fide* personal necessity as mandated under the statute. His further assertion is that the respondent-landlord has been harassing the petitioner earlier also which forced the petitioner to file a suit for injunction which has been granted and it is now with this petition that the eviction is being sought of the petitioner. The only purpose for which the petition has been filed is to get the shop vacated and not to utilise it for the requirement, as has been projected by the respondent. He, thus, prays for setting aside the impugned orders passed by the authorities below.

(3) I have heard the submissions made by learned counsel for the petitioner and have gone through the impugned orders.

(4) As regards the contention of the counsel for the petitioner that the petitioner, apart from the demised premises, has three vacant shops in his possession, there is no evidence to that effect on record to substantiate his assertion, therefore, his plea is outrightly rejected.

(5) As regards the contention of the counsel for the petitioner that the respondent-landlord is of 74 years of age and not keeping good health and has a failing eyesight, that also cannot be a ground for judging the *bona fides* of a landlord, especially when he has been able to show and project the intent and purpose, which also is not required to be proved, to start his business. Even starting the business by demolishing the demised premises along with other shops which are in the same vicinity and reconstructing it for starting a large scale *karyana* shop cannot be doubted. The respondent has categorically averred that although his sons are residing abroad but they have encouraged him to start some business in India so that they can at a later stage join him in India in the business. Merely because they are settled in United States of America and doing well, cannot be a ground to doubt the *bona fides* of the statement of the landlord when nothing has come out in the cross-examination of the respondent which would create a dent upon the veracity of his statement. The judgments are clearly in support of the respondent-landlord in similar facts where the landlord wanted to not only start a business in the demised premises but in the other adjacent shops as well by converting it into one unit which would serve his purpose of starting business. Reference can be made to the judgments in **Ram Paul** versus **Vijay Kumar and others**¹ and **Vijay Kumar** versus **Rajeev Kumar Murria**².

(6) By now it is a settled proposition of law that the landlord is the best judge of his needs which cannot be doubted nor can the tenant dictate his terms with regard to the suitability of the accommodation. The requirement of the landlord has to be seen in the perspective of the landlord and not from that of the tenant. If a positive averment has been made by the landlord dilating therein and proving his personal *bona fides* and requirements that has to be taken to be correct unless there is something which comes out which would impede or impeach the veracity of his statement. The present is a case where nothing has come out which would indicate that the respondent-landlord had not projected his *bona fide* personal needs or has with a *mala fide* intention proceeded to file a petition to seek eviction of the petitioner.

(7) The contention of learned counsel for the petitioner that the respondent has been harassing the petitioner for which he had to file a

¹ 2013(4) Civil Court Cases 581 (P&H)

² 2012(1) Civil Court Cases 428 (P&H).

suit for injunction, suffice it to say that the injunction even if granted in favour of the petitioner was limited to the extent of getting eviction of the demised premises in accordance with law which the respondent-landlord has resorted to and has been successful in getting the premises evicted from the authorities below. It has also come on record that not only the demised premises is being sought to be evicted by the respondent-landlord but he had filed separate eviction petitions qua the other shops as well. One of the adjacent shops which has been ordered to be evicted is a subject matter of a similar revision petition i.e. **Civil Revision No.8494 of 2016** titled as **Rohit Kumar** versus **Jasbir Singh** which is being considered along with the present petition. The findings, therefore, as recorded by the authorities below being based upon proper appreciation of the pleadings and evidence brought on record, do not call for any interference by this Court in exercise of its revisional jurisdiction.

(8) The present petition, therefore, stands dismissed.

(9) In the light of the dismissal of the petition, the application for stay i.e. CM No.25713-CII of 2016, stands disposed of as infructuous.

Amit Aggarwal