

(2016) 08 P&H CK 0361

In the Punjab And Haryana At Chandigarh

Case No : C.M. Nos. 17197-98-CII of 2015 & C.R. No. 5424 of 2015 (O&M)

Ghanshyam Dass Aggarwal

APPELLANT

Vs

Nitya Nand

RESPONDENT

Date of Decision : 16-08-2016

Acts Referred:

Haryana Urban (Control of Rent and Eviction) Act, 1973 — Section 13

Citation : (2017) 1 PLJ 101 : (2016) 4 RCRCivil 641 : (2016) 2 RCRRent 371

Hon'ble Judges : Augustine George Masih, J.

Bench : Single Bench

Advocate : Sanjay Mittal, Advocate, for the Petitioner; Munish Gupta, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Augustine George Masih, J. (Oral)—C.M. No. 17197-CII of 2015

C.M. is allowed subject to just exceptions. Filing of certified copy of order dated 12.03.2015 passed by the Rent Controller, Narnaul is dispensed with.

C.R. No. 5424 of 2015

Challenge in this revision petition is to the order dated 12.03.2015 passed by the Rent Controller, Narnaul, whereby petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 preferred by the respondent-landlord for eviction of the petitioner-tenant was allowed, appeal against which preferred by the petitioner has been dismissed by the Appellate Authority on 14.05.2015.

2. It is the contention of the learned counsel for the petitioner that the eviction from the demised premises, which is a shop, was sought by the respondent-landlord primarily on the ground of personal necessity, which both the Courts below have found to be correct. He states that these findings, as recorded by the Courts below, cannot sustain in the light of the fact that the respondent-landlord

has two other shops adjacent to the shop in question. Not only this, the respondent was owner of other two shops in the Anaj Mandi, which he had sold about 7-8 months prior to the filing of the eviction petition. Keeping in view these facts, it cannot be said that the need on the part of the respondent is bona-fide and genuine. That apart, he contends that there are two other shops along with the shop of the petitioner and qua them also, eviction petitions have been filed but the same are still pending. As has been projected in the petition, the intention is to use all these shops for the purpose of the sanitary and marble shops. The purpose by vacating one of the shops, as in the case of the petitioner, when petitions for eviction qua two other shops are pending would not be served and, therefore, the Courts have proceeded wrongly to consider and decide the eviction petition of the respondent-landlord isolatedly. He, on this basis, contends that the present revision petition deserves to be allowed by setting aside the impugned orders.

3. Since a caveat has been filed by the respondent-landlord, I have heard the counsel for the respondent.

The caveat stands discharged.

4. Counsel for the respondent submits that it was specifically mentioned in the eviction petition itself and explained that running the shops in the grain market were not now feasible and profitable for the reason that it was an old grain market and with the establishment of the new grain market, there is hardly any work in the old grain market, because of which, he had no option but to sell the same. The shops on the back of it i.e. three shops are also owned by the respondent, in which he intends to settle his large family, which consists of three sons and five grandsons, out of which, one son and two grandsons are settled, rest of them have to be settled and the intention primarily is to start shops by evicting the tenants from the three shops, which are owned by him, and start the sanitary and marble business in these shops. He contends that the shops, which are now being sought to be evicted, are situated in the sanitary and marble market and, therefore, have a great potential. The respondent has also been able to establish that he has the resources for settling his family members, as have been pointed out and mentioned in the evidence and pleadings. His further contention is that the assertion of the counsel for the petitioner that the two other petitions are still pending and, therefore, the present eviction petition could not be proceeded with by the Rent Controller independently, is not sustainable for the reason that each eviction petition is independent of each other and it cannot be assumed that the other two eviction petitions will not succeed and, therefore, the plea of the counsel for the petitioner cannot be accepted. He, thus, prays for dismissal of the revision petition.

5. I have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the impugned orders but do not find myself in agreement with the submissions of the counsel for the petitioner.

6. The first argument, which has been raised by the counsel for the petitioner, is with regard to the fact that the respondent-landlord has sold his shops in the old grain market and, therefore, it is not a bona-fide necessity on the part of the landlord. The respondent-landlord has clearly and with cogent evidence and reasons established as to why and under what circumstances, he had sold the shops in the old grain market especially referring to the fact that the new grain market has been established, because of which, there is not much work in the old grain market affecting the viability and feasibility of running the shops and as a prudent business, he has proceeded to sell the shops, which further fortifies the assertion of the respondent-landlord that he has the resources (the sale proceeds) to settle his dependents in the three shops, which he is seeking eviction from the tenants, one of which is in possession of the petitioner. It is not in dispute that these three shops are situated in the sanitary and marble market and obviously, with the running business and that too, of this nature in the market, the feasibility of opening running the business for this very purpose in the shops cannot be said to be unjustified. The respondent-landlord has been able to establish the bona-fide necessity on his part and there is no evidence which is worth mentioning which would dent upon the bona-fide of the respondent-landlord. He has clearly been able to establish that he has two sons and three grandsons, which have to be settled and it is for this purpose, the eviction is being sought. The findings, as recorded by the Courts below, as regards the bona-fide necessity, thus, stands clearly established which do not call for any interference by this Court as there is no illegality therein.

7. As regards the contention of the counsel for the petitioner that two other eviction petitions qua the other two adjacent shops are still pending and, therefore, the purpose would not be achieved by seeking the possession of the demised premises and, therefore, the petition has wrongly been decided by the Rent Controller, the same cannot be accepted for the simple reason that each tenancy is different and independent and similar is the position with regard to the eviction petition as each of these eviction petitions were pursued and evidence has been led separately. Therefore, there being no commonality between them, the Courts have proceeded rightly to decide the claim of the respondent-landlord seeking eviction of the petitioner. There appears to be no ground for interfering on this plea also.

8. Finding no merit in the present revision petition, the same stands dismissed.

C.M. No. 17198-CII of 2015

9. In view of the dismissal of the main revision petition, no orders are required to be passed in this application for stay and, therefore, the same stands dismissed.