
(2015) 04 SHI CK 0045
In the High Court Of Himachal Pradesh
Case No : Civil Revision No. 88 of 2005

Madan Lal

APPELLANT

Vs

Kunta Devi and Others

RESPONDENT

Date of Decision : 17-04-2015

Acts Referred:

Citation : (2015) 04 SHI CK 0045

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Ajay Kumar Dhiman, for the Appellant

Final Decision : Dismissed

Judgement

Sanjay Karol, J.

1. Original petitioner Sh. Jai Karan, who died during the pendency of the proceedings before the authority below, filed a petition for ejectment against respondent Sh. Madan Lal, petitioner herein. Undisputedly the premises are situated within the municipal limits of Shimla and are subjected to the provisions of the Himachal Pradesh Urban Rent Control Act, 1987 (hereinafter referred to as the Act). As on 15.5.1997, at the time of filing of the petition for ejectment under the provisions of the Act, on the ground of bona fide requirement, family members of the original petitioner Jai Karan constituted of himself, his wife, two married sons and two grand children. The premises in occupation of Jai Karan were not sufficient enough to meet the requirements of his family. Two rooms, one kitchen, glazed and open verandah, is under the occupation of the petitioner herein as tenant.

2. The learned Rent Controller(4), Shimla, in terms of Order dated 14.7.2000, passed in Rent Case No. 53/2 of 1999/97, titled as Jai Karan v. Madan Lal, rejected the petition on the ground that Jai Karan had sufficient accommodation with himself. However, the lower Appellate Authority, while reversing such findings, allowed the petition directing the tenant, petitioner herein, to hand over

vacant possession of the premises to the landlords, respondents herein, within a period of three months, in terms of impugned judgment dated 28.4.2005, passed in Rent Appeal No. 9-S/14 of 2004/2000, titled as Jai Karan (since deceased through L.Rs.) v. Madan Lal.

3. Having heard learned counsel for the petitioner as also perused the record, the Court is of the considered view that keeping in view the strength of the family of the present owners and the accommodation available with them, it cannot be said that the findings returned by the Appellate Authority are perverse, illegal, irregular or erroneous.

4. No doubt, original petitioner, Jai Karan expired during the pendency of the proceedings but however over the years number of his surviving family members has increased. Widow, two married sons and grand children of the original petitioner live together as a family unit and urgently require the premises which is in possession of the tenant. The total accommodation available with the present respondents is just four rooms. Children have grown up so also their needs, desire and requirement, which is neither arbitrary nor capricious, of living in separate rooms.

5. It is not the case of the tenant, petitioner herein, that the landlords, within five years of filing the petition for ejectment have voluntarily vacated any accommodation which was in their possession. The bona fide need and requirement of the landlords is still continuing. It is also not the case of the tenant that the landlords, during the pendency of the present petition, have acquired some additional accommodation, meeting their bona fide requirement. As such, findings returned by the Appellate Authority on the question of bona fide requirement of the landlords cannot be said to be false, imaginary or set up only to defeat the rights of the tenant.

6. For all the aforesaid reasons, present petition devoid any merit is dismissed. Petitioner herein is directed to hand over vacant possession of the premises to the respondents, within a period of three months from today.

Petition stands disposed of, as also pending application(s), if any.