Vikas Chatrath v. Salochana Devi, 2013 PLRonline 0109 (P&H), ID 310601

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PUNJAB AND HARYANA HIGH COURT

Before: Justice Rakesh Kumar Garg, J.

VIKAS CHATRATH – Petitioner

Versus

SALOCHANA DEVI – Respondent

CR No. 5590 of 2013.

16.9.2013.

Haryana Urban (Rent Control and Eviction) Act, 1973, Section 13(a)(i) – Bona fide need – Landlord is the best judge of his/her needs and a tenant cannot dictate his terms with regard to suitability and sufficiency of accommodation in this regard – Educated sons of the landlord are employed and want to start a business after leaving the job – It is for the landlady as to how she is to settle her sons – Eviction upheld. [Para 6]

Suresh Kumar, for the petitioner.

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Rakesh Kumar Garg, J. – This is tenant's revision petition challenging the impugned order of the Rent Controller dated 23.12.2011 whereby he was ordered to be evicted from the demised premises and the judgment dated 11.7.2013 of the Appellate Authority dismissing his appeal against the aforesaid order of his eviction.

2. Suffice is to say that the respondent-landlady filed the ejectment petition against the petitioner-tenant on various grounds i.e non payment of rent and personal bona fide necessity of the respondent-landlady. However, the respondent-landlady did not press the ground of non-payment of rent before the Rent Controller. However, the ejectment of the petitioner was ordered from the demised premises on the ground that the same was required by the respondent- landlady for her bona fide personal need.

3. Appeal filed by the petitioner against the aforesaid order of eviction passed by the Rent Controller was also dismissed. At this stage, it is useful to refer to the ground of personal necessity as set up by the respondent- landlady. It is the case of the respondent-landlady that the petitioner is liable to be ejected on the ground of self use of her two young uneducated sons as at the time of inductment of the petitioner, the children of the

respondent-landlady were studying.

4. The aforesaid ground of eviction was contested by the petitioner on the averments that there were three shops in the building and one was under the use and occupation of the petitioner while the other two shops were under the use and occupation of the landlady wherein she herself was carrying on business in one shop while in other, her husband was carrying on general store and both of her sons are employed and her husband in the business being carried on by them in the said shops owned and possessed by them. It was further averred by the petitioner that both the sons of the respondent were employed and drawing handsome salaries.

5. Learned counsel for the appellant has vehemently argued that the bona fide need of the respondent-landlady is not proved on record as both of her sons are employed and are drawing handsome salaries and thus, no bona fide need arises in favour of the respondent as it cannot be said that she was to settle her two uneducated sons as it is her case that the shop is required for the use of his two young uneducated sons, who were studying at the time of creation of the tenancy and since the sons of the respondent-landlady are employed, there was no necessity for them to start their own business.

6. The aforesaid argument raised on behalf of the petitioner is liable to be rejected. It is well settled that the landlord is the best judge of his/her needs and a tenant cannot dictate his terms with regard to suitability and sufficiency of accommodation in this regard. It is not in dispute that both the sons of the respondent-landlady are educated. It is the case of the petitioner that both the sons of respondent-landlady are employed and therefore, there was no necessity for them to start a business. Again, it may be noticed that it is for the respondent-landlady as to how she is to settle her sons. It is the view point of the respondent landlady which is to be sustained and in case the sons of the respondent want to start the business after leaving the job, it is for them and there is no bar under the law against them to leave the job and start a business of their own. Moreover, it is the case of the petitioner himself that the both the sons of the respondent used to help her in business and her husband’s business. Learned counsel for the petitioner has also raised an argument that the respondent in her petition has averred that her both the sons are unemployed and she wants to settle them whereas the said fact is incorrect as both of her sons are employed and are getting handsome salaries. Though there is no evidence to support the aforesaid contention of the petitioner on record yet it may be noticed that the petitioner has moved an application before the Appellate Authority to lead additional evidence with regard to the aforesaid fact which was rejected by the Appellate Authority on the ground that no case is made out to lead additional evidence at the appellate stage. Even, this Court is of the view that the petitioner has failed to make out a case for leading additional evidence to prove the fact that sons of the respondent are employed, as it was for him to prove the aforesaid fact before the Rent Controller itself as it was his positive case from the very beginning that sons of the respondent- landlady are employed.

7. At this stage, it may further be noticed that there is nothing on record to suggest that when the respondent filed the instant petition her sons were in service. No such evidence/fact has come on record to support the argument raised on behalf of the

petitioner before this Court. Even the document sought to be produced as additional evidence before the Appellate Authority does not help the case of the petitioner as this document has been issued by the Employees Provident Fund Organisation showing deduction of EPF in the name of one Arun Verma. There is nothing on record to connect the son of the respondent-landlady with the aforesaid document. Not only this, the document does not show as to when this Arun Verma joined service or at the time of filing of the petition or making statement in the court by the respondent- landlady, her sons were in service.

8. Thus, in view of the concurrent findings recorded with regard to the need of bona fide personal necessity of the landlady, no interference is warranted in the impugned order.

9. No other ground is raised.

10. Dismissed.