

(2022-1)205 PLR 306

PUNJAB AND HARYANA HIGH COURT

Before: Mr. Justice Sudhir Mittal.

MUKESH KUMAR – Petitioner,

versus

ANITA JAIN – Respondent.

CR-7139-2019 (O&M)

Haryana Urban (Control of Rent and Eviction) Act, 1973 (II of 1973) Section 13 - Respondent-landlord intends to start a business by combining both the shops - Thus, no adverse inference can be drawn against her - Regarding the daughter-in-law not being in a position to join the landlady - Ground taken in the eviction petition was the personal necessity of the landlord herself - Even if the daughter-in-law does not join the business, it makes no difference - Personal necessity pleaded is of the land-lady herself and, thus, the tenant cannot draw any benefit from this alleged fact.

Ms. Anita Sharma, for the petitioner. Mr. Narender Pal Bhardwaj, for the respondent

Sudhir Mittal , J. (Oral) - (22nd September, 2021) -

CM-5055-CII-2021

Disposed of as having been rendered infructuous.

CR-7139-2019(O&M)

The tenant is in revision petition against concurrent orders of eviction passed by the Courts below. The landlord-respondent filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 for ejection of the petitioner-tenant from shop in dispute on the ground of personal necessity. It was pleaded that she is a widow and is drawing a measly family pension. She requires the shop in dispute for setting up her own business. There are two neighboring shops and both are being got vacated on the ground of personal necessity. Both the shops shall be joined together by removing the partition and that will give adequate space for setting up business of readymade garments. The Rent Controller has ordered eviction and appeal of the tenant has been dismissed.

2. Learned counsel for the petitioner has placed reliance upon the contents of CM-6993-CII-2021. The said miscellaneous application was filed for placing on record subsequent events. According to the contents thereof, the possession of the neighboring shop has been

secured by the respondent-landlord on 31.05.2021 and yet, she has not made any efforts to start her business therein. This shows that the personal necessity pleaded is not bona fide. It has been also pleaded in the application that the daughter-in-law of the respondent-landlord has left the matrimonial home and is residing with her parental family. On the basis of this averment, it has been argued that there is no chance of the daughter-in-law joining the business. The subsequent events can be taken note off and, thus, the revision petition deserves to be allowed.

3. It may be noted that no argument has been raised regarding the findings returned by the Courts below. Thus, it is assumed that there is no error in the said findings and accordingly, they are affirmed.

4. Regarding subsequent events, suffice to say that in the eviction petition itself, it has been pleaded that the landlady needs the shop in dispute as well as the adjoining shop and that for getting the adjoining shop vacated, a separate eviction petition has been filed. The shop referred to by the learned counsel for the petitioner is the adjoining shop. Possession of the same may have been obtained on 31.05.2021 and no steps may have been taken to start a business therein but that is in keeping with the pleadings in the eviction petition. The respondent-landlord intends to start a business by combining both the shops. Thus, no adverse inference can be drawn against her. Regarding the daughter-in-law not being in a position to join the landlady, I only need to say that the ground taken in the eviction petition was the personal necessity of the respondent-landlord herself.

5. ven if the daughter-in-law does not join the business, it makes no difference.

6. Personal necessity pleaded is of the land-lady herself and, thus, the tenant cannot draw any benefit from this alleged fact.

7. In view of the aforementioned reasons, the revision petition has no merit and is dismissed.

R.M.S.

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Petition dismissed.