

2018 PLRonline 1303

Rent Act –Bona-fide need - A minor variation in the statement cannot defeat the right of eviction available to the landlord under a statute - Landlords his two sons were earlier running a manufacturing unit of the footwear which has failed and now they wish to settle in the premises in question - The landlord could have filed a petition only for bona fide requirement of one son - Assuming that landlord while leading evidence has stated that requirement is only for one son even then it would not improve the case of the tenant.

Rent Act – Bona-fide need - Defendants - Landlord filed a petition with specific pleadings that earlier these sons referred to above were running a manufacturing unit of the footwear which has failed - Once the previous business of the sons have failed, obviously they are dependent upon their father.

Rent Act – Bona-fide need - Ingredients of availability of alternative shop or having not vacated such a building without sufficient cause, has not been pleaded with respect to the son for whom eviction is sought for - Plea that such requirements are statutory in nature and therefore, mandatory requirement to be pleaded - Tenant has to raise an objection at an appropriate place i.e. at the time of filing written statement enabling an opportunity to the landlord to amend the petition - Tenant cannot be permitted now to take the landlord by surprise – Practice and procedure.

Punjab & Haryana High Court,

JUSTICE ANIL KSHETARPAL, J.

Raj Kumar v. Jaimal Singh

Civil Revision No. 3596 of 2015 (O and M)

14.08.2018

For Petitioner : Mr. Kunal Mulwani, Advocate, for the Petitioner; Mr. Ravi Kapoor, Advocate, for the respondent

Anil Kshetarpal. J (Oral) - Tenant-petitioner is in the revision petition against the order passed by the learned Rent Controller, affirmed in appeal by the learned Appellate Authority, ordering his eviction on the ground of bona fide requirement to settle his son.

2. It is pleaded case of the landlord that he has three sons, namely, Mohinder Pal Singh, Amarjit Singh and Surinder Singh. Mohinder Pal Singh is running a factory, whereas Amarjit Singh and Surinder Singh were also running a manufacturing unit of footwear which has now failed and therefore both the sons require the shop in question for their bona fide need.

3. Both the authorities after appreciating the evidence have ordered eviction.

4. Learned counsel for the petitioner argued that there is contradiction, as at some places, the landlord is asking for bona fide requirement of both the sons, whereas in some part of the evidence he is pleading requirement of only one son. Hence, the bona fide requirement is not proved. He further submitted that the sons of the landlord are no more dependent upon him as they are married and were at one, admittedly, running a business.

5. This court has considered the submissions, however, find no merit therein.

6. A minor variation in the statement cannot defeat the right of eviction available to the landlord under a statute. It is positive case of the

landlord that his two sons namely Amarjit Singh and Surinder Singh were earlier running a manufacturing unit of the footwear which has failed and now they wish to settle in the premises in question. The minor variation may be because of slip of tongue. The landlord could have filed a petition only for bona fide requirement of one son. Assuming that landlord while leading evidence has stated that requirement is only for one son even then it would not improve the case of the tenant.

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7. With regard to second submission of learned counsel for the tenant, it may be noted that landlord filed a petition with specific pleadings that earlier these sons referred to above were running a manufacturing unit of the footwear which has failed. Once the previous business of the sons have failed, obviously they are dependent upon their father. Therefore, there is no force in the second submission of learned counsel for the petitioner.

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8. Next argument of learned counsel is that ingredients of availability of alternative shop or having not vacated such a building without sufficient cause, has not been pleaded with respect to the son for whom eviction is sought for.

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9. Learned counsel for the petitioner was requested to point out if such argument was ever raised before the courts below, he admitted that such argument was not pressed. However, he submits that such requirements are statutory in nature and therefore, mandatory requirement to be pleaded. In the considered view of this court, tenant has to raise an objection at an appropriate place i.e. at the time of filing written statement enabling an opportunity to the landlord to amend the petition. Tenant cannot be permitted now to take the landlord by surprise.

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10. In view thereof, there is no scope for interference.

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11. The civil revision is dismissed.

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