

Whether approved for reporting?¹

For the Petitioner: Mr.B.S.Thakur, Advocate.

For the Respondent: Nemo

V. M. Jain, J.

This revision petition has been filed by the landlord-petitioner against the order dated 7.9.2005 passed by the Appellate Authority, Shimla, whereby the appeal filed by the tenant was partly allowed and the order dated 21.12.2004 passed by the Rent Controller was modified and the ejectment of the tenant was ordered only on the ground of non payment of rent without interest.

The facts which are relevant for the decision of the present petition are that the landlord had filed a petition under Section 14 of the H.P. Urban Rent Control Act, 1987 (hereinafter referred to as the Act), seeking the ejectment of the tenant from the demised premises on the ground that the tenant was in arrears of rent, that the premises in the occupation of the tenant had become unsafe and unfit for human habitation and that the premises in occupation of the tenant was bonafidely required by the

¹ Whether reporter of local papers are allowed to see the judgment ?

the demised premises. Resultantly on the ground of non payment of rent and bonafide requirement for reconstruction/rebuilding, the order of ejectment was passed. Aggrieved against the same, the tenant filed the appeal before the Appellate Authority. The learned Appellate Authority after hearing both sides partly allowed the appeal, modified the order of eviction passed by the Rent Controller and it was held that landlord did not require the premises bonafide on the ground of reconstruction/rebuilding, whereas the order of eviction was upheld on the ground of non payment of rent amounting to Rs.4350/- but without interest. Aggrieved against the order passed by the Appellate Authority, the landlord filed the present revision petition in this Court.

The only ground urged before me by the learned counsel for the petitioner-landlord was that the Appellate Authority had erred in law in holding that the landlord did not require the premises in question bonafide for the purpose of rebuilding and reconstruction which was not possible except by evicting the tenant from the demised premises. However, I find no force in this submission of the learned counsel for the petitioner-landlord. Under Section 14(3)© of the Act a landlord may apply to the Rent Controller for an order directing the tenant to put the landlord in

making thereto any substantial additions or alterations and that such building or rebuilding or addition or alteration cannot be carried out without the building or rented land being vacated.”

From the perusal of the above it would be clear that the landlord could seek ejectment of the tenant from the building in question if he required the building bonafide for the purpose of building or rebuilding or making any substantial additions or alterations and the same were not possible without getting the building vacated from the tenant. Thus, even if the landlord wanted the building to be vacated from the tenant for the purpose of building or rebuilding etc. as referred to above and the same were not possible without getting the building vacated from the tenant, yet for seeking the ejectment of the tenant from the demised premises on this ground the landlord is also required to prove that he bonafide require the same for this purpose.

As referred to above, the plea of the landlord that the building had become unsafe and unfit for human habitation has already been negated by the Rent Controller and there is no challenge to the same on the part of the landlord either before the appellate authority or before me. Admittedly, the landlord is not required by the Government, legal authority or

merely to fulfil his whims in this regard. The learned counsel appearing for the petitioner-landlord submitted before me that the bonafide of the landlord is proved on the record since the landlord is seeking the ejectment of all the tenants of the building in question on this ground, in my opinion, could not be made the basis for holding that the landlord bonafide required the building for the purpose of building or rebuilding. Merely because the landlord has sought the ejectment of all the tenants, in my opinion, it could not be said that the landlord bonafide required the premises in question for the purpose of building or rebuilding the same. As referred to above, the landlord is required to show his bonafide.

It was then submitted before me by the learned counsel for the landlord that the landlord required the premises for the purpose of building or rebuilding so as to utilize the building in a better way. However, in my opinion, this also would not be a ground to order the eviction of the tenants from the demised premises on the ground of bonafide requirement for building or rebuilding the same. As referred to above, the landlord cannot seek ejectment of the tenant at his whims by pleading that he required the premises for the purpose of building or rebuilding. On the other hand, the landlord is required to show his boanfide in this regard. As

For the reasons recorded above finding no merit in this revision
petition, the same is hereby dismissed.

December 29, 2005(g)

(**V.M. Jain**), J.