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EVICTION AND BONAFIDE REQUIREMENT BY LANDLORD: SURINDER SINGH DHILLON & ORS VS VIMAL JINDAL

INTRODUCTION -

A Division Bench of the Hon'ble Supreme Court, consisting of Hon'ble Justices Hemant Gupta and J.B.Pardiwala, has recently held that the demand for a rent increase is entirely irrelevant for determining the bonafide requirement for a landlord's property. [*Surinder Singh Dhillon & Ors vs Vimal Jindal (Civil Appeal No. 5539-5540 OF 2022)*].

BACKGROUND -

1. The Rent Control Act, in principle, protects the property of a landlord and the rights of the landlord and tenant with respect to the tenancy.
2. The Rent Control Act, differs from state to state since land is a state subject under List II, 7th Schedule of the Indian Constitution. Therefore, respective State governments are empowered to make or amend laws related to tenancy vis-a-vis Rent Control.
3. A landlord, for eviction of tenant before or after the expiry of the tenancy, can apply to the Rent Controller, if conditions as set out in the effective Rent Control Act are met.
4. For evicting a tenant on grounds of personal occupation or use of landlord, the landlord is required to establish that such requirement of the tenanted premise is bona fide.

FACTS AND DECISION -

1. The landlord had rented out two separate premises for a period of 10 years.
2. Upon nearing lease expiry, eviction notices were issued.
3. The landlord had issued a subsequent letter enquiring whether the tenant is agreeable to pay rent at prevalent market rate.

4. Since such negotiation did not fructify, the landlord filed eviction petition before the Rent Controller.
5. An Order of eviction was passed by the Rent Controller as well as the Appellate Authority therein.
6. However, the High Court at Punjab and Haryana had set aside this Order by allowing the Revision Petition filed by the tenant under Section 15(5) of the East Punjab Rent Restriction Act, 1949. Further, direction was given to re-decide the Appeal and consider the effect of the notice served by the landlord calling upon the tenant to increase rent.
7. The Hon'ble Supreme Court, however, set aside the order of the High Court and restored the Revision Petition for the High Court to decide in accordance with law.

BONA FIDE NEED OF THE LANDLORD: MEANNING

1. The dictionary meaning of the word 'Bona fide', used in the context of 'Bona fide requirement of the landlord' signifies the genuine and real need of a landlord of the tenanted premises.
2. 'Bona fide' is used to evade contrary intentions of the tenant and to restrict the landlord from evicting the tenant on his whims and desire under the pretext of requirement for own occupation or use. In principle, it protects the tenants from improper use of a landlord's authority.
3. Only if actual need arises, can it be said to be 'bona fide'. [*Rahabhar Productions Pvt. Ltd. v. Rajendra Kumar Tandon (1998) 4 SCC 49*]
4. Such bonafide or suitability has to be seen from the convenience of the landlord and his family members based on the totality of the circumstances including



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their profession, vocation, style of living habits and background.
[*M.L Prabhakar v. Rajiv Singal (AIR 2001 SC 522)*]

5. The Supreme Court, in *Shiv Swaroop Gupta v. Dr. M.C. Gupta [AIR 1999 SC 2507]* has extensively dealt with 'bona fide' requirement:

- (i) The word 'need' and 'require' denote a certain degree of want.
- (ii) Term 'bona fide' refers to a state of mind.
- (iii) The phrase 'required bona fide' is suggestive of legislative intent that a mere desire which is the outcome of whim is not considered by Rent Control legislation.
- (iv) The judge of the facts should place himself in the armchair of the landlord and ask the question to himself whether, in the facts substantiated by the landlord, the need to occupy the premises can be said to be natural, real, sincere, and honest.
- (v) Concept of bona fide needs a practical approach instructed by realities of life- an approach either too liberal or too conservative or pedantic must be guarded against.

CONCLUSION:

1. The bona fide need of the landlord as a ground for eviction under the Rent Control Act is the threshold that draws the line between the genuine need of the landlord of the tenanted premises and the mere desire of the landlord.
2. The bona fide ingredient is to be churned out from the intention of the landlord. Such concept of 'bona fide necessity' should be meaningfully construed so as to make the relief granted to the landlord real and practical.