

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.3051 of 1996 (O&M)

Date of decision:25.03.2015

Sheela Devi d/o Shri Bhagat Ram, through her general attorney Shri Mohinder Kumar son of Shri Puran Chand, resident of Railway Road Thanesar, District Kurukshetra.

... Petitioner

versus

Vishnu Dutt Vaid son of Shri Rulia Ram, Main Bazar Purani Mandi, Thanesar, District Kurukshetra.

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Surinder Mohan Sharma, Advocate,
for the petitioner.

Mr. Kanwal Goyal, Advocate,
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ?No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. The petitioner sought for eviction on the ground that the building has become unfit and unsafe for human habitation. The petitioner had the benefit of Local Commissioner to report on the condition of the building and the court below did not find any circumstance to justify an intervention in favour of the landlord.

This court, during the pendency of appeal, had appointed an

Advocate Commissioner to inspect the property again to give a report. The Commissioner Shri Tarun Deep Kumar has carried out an inspection after notices to parties and has filed a report with photographs. The photographs are with reference to interiors of the demised premise which consist of two portions and the Commissioner has noticed that the roof of the shop was weak and *sarkandas* have grown over the roof. The Commissioner has also found that *lal mitti* to be spread over the roof in some parts. The counsel also says that the building has become further worse and the roof at the back portion has literally fallen down.

2. No building can last for ever. Even historical places and things of architectural value could be retained only if proper restorative works are undertaken periodically. It is, therefore, not a matter of surprise that during all the period when the case is pending for more than 3 decades, the building has over a period of time fallen in value and it might require even work of repairs or restoration. The ground of eviction is not that a building would require to be repaired and eviction should be ordered for repairs. The ground of eviction is that it is unfit and unsafe for human habitation. The front portion of the building is run by the tenant for having an Ayurvedic Shop and from the photographs given, it does not appear to be unfit or unsafe. If the building could be restored by appropriate repairs from time to time that would require to be

carried out, it will be left to the tenant to approach the court for such repairs as the building might require. I do not take the observations of the Commissioner in his report to be so serious as to render a finding that the building has become unfit or unsafe. I would only make it known on the defence of the respondent himself that he will have no cause to complain other than a right that he may exercise for seeking for such repairs as are necessary without modifying the structural integrity of the building. If such an application is filed, it will be dealt with on its own merits, but as of now, I find no reason for intervention.

3. Even at the previous hearing on 18.03.2015, after hearing the counsel for the petitioner for some time, I suggested that the parties could negotiate for better terms for rent, considering the fact that the rent was being paid at ₹12/- per month. The counsel for the respondent says that it has not been possible to make headway of settlement for enhancement of rent. I find no reason to participate in any peace parleys, if the parties cannot secure to themselves what is fair. It must be remembered that justice is not a component that should reside only in the mind of a Judge. The parties and so too, the counsel need to play a responsible role in seeing what is appropriate in a given situation. If they cannot take a clue from what the court was saying that the party must re-negotiate but they would come back to court empty handed, I can do no more than assess the case

on what the documents recite. The documentary evidence produced before me and the judgment already given offer nothing more to benefit the petitioner.

4. The revision petition is dismissed.

(K.KANNAN)
JUDGE

25.03.2015
sanjeev