

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

108

Civil Revision No.1289 of 2015(O & M)

Date of Decision:04.11.2015

Deen Dyal Verma and others

....petitioners

Versus

Madan Lal

.....respondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

- 1.Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not? YES
3. Whether the judgment should be reported in the Digest?

Present: Mr.Sushil Saini, Advocate
for the petitioners

ARUN PALLI, J.(ORAL):-

Ejectment of the petitioners-tenants was ordered by the Rent Controller, Khanna, vide order dated 31.08.2012, on account of personal bona fide need and, for the tenants-petitioners had ceased to occupy the premises i.e.a shop. In an appeal preferred against the said order, Appellate Authority affirmed the finding only as regards the tenants having ceased to occupy the shop in question for a continuous period of 4 months, without any reasonable cause, w.e.f.January 2005. And, maintained the ejectment.

Briefly, the case set out in the eviction petition was that the respondent had rented out the premises to petitioner No.1 Deen Dyal and late Dr.Anoop Bhandari, in the year 1990. But unfortunately, Dr.Anoop Bhandari had passed away on 06.11.2004. And Deen Dyal Verma (petitioner No.1), was appointed in a government service, and,

for he was posted at Government Ayurvedic Dispensary, Village Faizulapur, Tehsil Amloh, District Fategarh Sahib, the demised premises was lying un-attended and closed.

In defence, it was pleaded inter alia, that the petitioners-tenants had not ceased to occupy the premises for a continuous period of four months w.e.f. January 2005. However, it was correct that Dr. Anoop Bhandari had died in the year 2004 and Deen Dyal Verma-petitioner No.1 was in government service. But, though petitioner No.1 was posted at Government Ayurvedic Dispensary, Village and Post Office Faizulapur, Tehsil Amloh, District Fatehgarh Sahib, which was at a distance of about 10 Kms. from Khanna, but he would open the shop every day in the morning and lock the premises in the evening. Further, Sunita wife of Deen Dyal Verma was also a doctor and would assist her husband in his profession. The demised premises had never been left un-attended or was ever closed. Further, wife of Dr. Anoop Bhandari was also getting training in medical line and she too would come to the clinic daily and sit there.

On a due and comprehensive consideration of the matter in issue and the evidence on record, both the authorities concurrently concluded that, concededly, Dr. Anoop Bhandari had died in the year 2004 and Dr. Deen Dyal Verma had been appointed in a government service and was working in Government Ayurvedic Dispensary, at the time of institution of the eviction petition. Although, petitioner Deen Dyal Verma had pleaded and deposed that after his office hours, he would daily go to the shop in question and treat

patients, but no cogent evidence was brought on record to substantiate the said plea. So much so, Deen Dyal Verma (RW1) conceded in his cross examination that he had entered government service since 08.08.2000 and had never obtained a station leave from the department. Initially, he was posted at Karamgarh, District Sangrur and thereafter, he was transferred to Village Amargarh in the same district. From Village Amargarh, he was transferred to Village Faizulapur. Village Karamgarh was situated at a distance of 65-70 Kms. Likewise, Village Amargarh was situated at a distance of 35-36 Kms. and Village Faizulapur 8-9 Kms. from Khanna. In the absence of any evidence to show that petitioner No.1 actually obtained a station leave as also the requisite material to show that he was actively involved in running a clinic at Khanna, the only and inevitable conclusion one could reach was that plea set up in defence was patently false. It was irreconcilable that he would visit the demised premises, post his duty hours, every day and attend patients. Record of the Punjab State Electricity Board i.e. Ex.R40 to Ex.R44, produced by Gurmail Singh-RW2, was hardly of any consequence as he was never produced for cross examination by the landlord respondent. Further, electricity bills i.e. Ex.P15 to Ex.P31 revealed that except two bills i.e. Ex.R13 and Ex.R21, there was no bill of the year 2006. And the other bills were of the year 1999, 2005, 2007 and 2011. Needless to assert, even otherwise, the electricity bills, post filing of the eviction petition were of no consequence. And if these two bills were looked into, bill Ex.R13 would show that there was no electricity consumption as the old and also the new reading was

6283 units. Likewise, Ex.P21 would show that only 4 units were consumed, which proved that electricity was never used in the premises. Likewise, the plea that his wife Sunita, who also happened to be a doctor, would assist petitioner No.1 in his profession, also remained unproved on record as she was never examined. Not just that, widow of Dr.Anoop Bhandari, who too was alleged to have been getting training in medical line and would sit at the shop, also never appeared in the witness box to prove the case set out in the written statement. Undoubtedly, both these were extremely crucial witnesses, but no explanation was rendered as to why they were not examined. Therefore, an adverse inference had to be drawn against the petitioners as they had withheld the best evidence from the Court. Even otherwise, nothing was brought on record to show that Sunita (wife of petitioner No.1) was even a doctor and Reeta Bhandari, widow of Anoop Bhandari, was getting any training in medical line. Further, nothing was brought on record, least any cogent or credible material to show that the demised premises was indeed being used as a clinic. No prescription slips or any other documents that may have been maintained in the ordinary course of business to run a clinic were brought on record. Likewise, income tax returns of Smt.Sunita i.e. Ex.R45 to Ex.R50 were also of no consequence, in the absence of any cogent evidence to show that she indeed had been running clinic in the absence of her husband. In fact, petitioner Deen Dyal Verma failed to produce his own income tax returns to show that besides what he was drawing as salary, he also had an income from the profession or the clinic that was

purportedly being run by him from the premises.

Learned counsel for the petitioners could not point out as to how the findings that have concurrently been recorded by both the authorities, were either contrary to the position on record or suffered from any material illegality. No other argument was advanced.

Thus, no interference is warranted in exercise of revisional jurisdiction under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949. The petition being devoid of merit is accordingly dismissed.

04.11.2015

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(ARUN PALLI)
JUDGE