

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

Civil Revision No.1933 of 2015 (O&M)

Date of decision: 19.03.2015

Madan Lal son of Shri Prithi Chand, tenant in portion of Shop No.976, Main Bazar, Dera Bassi, Tehsil Dera Bassi, District SAS Nagar, Mohali.

... Petitioners

versus

Rajinder Kumar son of Shri Shardha Ram, resident of Dera Bassi, Tehsil Dera Bassi, District SAS Nagar, Mohali.

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. G.S. Sandhu, Advocate,
for the petitioners.

Mr. Sunil Chadha, Senior Advocate,
with Mr. Chetan Bansal, Advocate,
for the respondent/Caveator.

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 tenant, who was ordered to be evicted on the requirement spelt out by the landlord that it was necessary for establishing his own business was resisted by the tenant unsuccessfully in the courts below that the landlord has a portion of a building which is vacant at the first floor over the existing premises and he can carry on the said business there. The tenant

was also contending that the petitioner's wife is running the same business of online trading elsewhere in the same town and there is no need for these premises to be vacated and the petition is motivated to secure higher rent. The tenant would also contend that the so-called inconvenience pleaded by the landlord to locate the business at the first floor of his own building that the staircase was too narrow of 1 ½ feet breadth cannot be accepted and if necessary, the tenant is prepared to make a room for broader staircase to reach the first floor. According to him, there is actually a back portion of the building which was still available for the landlord to use and the eviction orders by the courts below have not properly considered all the objections taken by the tenant.

2. The bona fides of the landlord will be invariably tested on what the statute itself provides. The existence of another building or the fact that he has not vacated the premises without justifiable cause will be illustrations of the want of bona fides. The bona fides or lack of it can also be seen from the past conduct of how the landlord has attempted dubious ways of securing his ejection and failed and, therefore, he was coming up with a need which cannot be justified at all. In this case, if the landlord says that he wants to run a business of online trading, he has disclosed his need that in the very nature of things, he would have an active conduct with the customers who may drop in on him for eliciting further details in

securing the benefit of business which he will be running. The accessibility to the shop is the most prime factor for any success in business and if the landlord feels fettered by the fact that the location of the first floor is not convenient or the access to the first floor through the staircase is too cramped to allow for approach, I let the matter reside there as the factor that is best decided by the landlord himself. Again, the fact that the wife is running the same business can be no argument that the husband cannot run his own business. In the modern living, both spouses making an earning to allow for a large corpus of funds in their hands is the norm. It is indeed an indicator of an economic progress. I cannot, therefore, find any reason to suspect the bona fides only because the wife is also running the same business. The location of the business at the backside cannot be insisted by the tenant, for, it is at the facade of the business premises with immediate access to the road that will be relevant and the tenant cannot dictate to the landlord where he will position himself for business.

3. None of the grounds urged before me requires any different treatment than how the trial court and the appellate court have dealt with.

4. The learned senior counsel states that he has been carrying on with the business since 1985 and it will be very difficult for him to locate himself elsewhere. The relative hardship that could

be caused has also been appraised by the court below and it has recorded the fact that the tenant has yet another premises in his occupation in the immediate vicinity where he is running a shoes business. Considering the said fact, I provide for 6 months' time for the petitioner to vacate, provided that he gives an undertaking before this court within a week that he will vacate the premises on or before 30th September, 2015 and also pays the rent regularly within the first 10 days of every calendar month. The petitioner will pay the past arrears of rent within a period of 4 weeks from today. If the undertaking is omitted to be given or if there is any default in the payment of past or future rent as stipulated, the period granted will be withdrawn and the property will become liable for eviction eo instanti.

5. The civil revision is dismissed but with the above observations.

(K.KANNAN)
JUDGE

19.03.2015
sanjeev