

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.2472 of 2015

Date of Decision.23.04.2015

Guru Dutt

.....Petitioner

Versus

Kishore Kumar

.....Respondent

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. Mandeep Singh Sachdev, Advocate
for the caveator/respondent.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

-. -

K. KANNAN J. (ORAL)

1. The petition is filed by the tenant who has been ordered to be evicted by the concurrent orders of the Rent Controller and the Appellate Authority. The landlord placed his petition on the ground of personal necessity for eviction on a plea that he was already running a business in the tenanted premises and he would require this property for his own occupation. The landlord's case was that the property was inherited by him from his father and there was a shop adjoining the demised premise which after the father's death was given to his brother in a family partition. He had also examined his deceased brother's widow in evidence to the fact that the sister-in-law was the owner of the property and in enjoyment of the property.

2. The tenant's contention was that the demised property is very small and it will not be appropriate for the landlord to run his business

from the demised property. It would be better for him to run his own business in the tenanted premise, for, he is paying a nominal rent of ₹ 2500/- to his landlord for the demised property. His contention also is that there is no documentary evidence that would show family division and the landlord himself was actually in occupation of the property and sister-in-law was not in any way enjoying the property.

3. The two Courts below have rejected this contention. I would find that there is absolutely no merit in the contention before me that the landlord will not be better off running his business in demised property. He cannot decide for a landlord as to what property is suitable for him. If he has decided that the demised property is not suitable for him and he would shift to his own demised property for running the business, that is fair enough to take such a call. If the landlord's case again is that his sister-in-law is now presently in possession of the other shop representing her husband's share, it will be begging the question to seek for documentary evidence when family settlement is said to be oral. I will find no reason to dislodge the finding rendered by the Courts below that in family partition, the sister-in-law has got right to property which is adjacent to the demised property. The argument is that the landlord is looking for higher rent and he will be prepared to pay such high rent. If the tenant could not convince the two Courts below that he could pay a higher rent and would continue in possession, he cannot do so here as well.

4. The civil revision is dismissed.

(K. KANNAN)
JUDGE

April 23, 2015
Pankaj*