

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 3733 of 2004

DATE OF DECISION : October 28, 2015

Smt. Phool Wati

..... PETITIONER(S)

VERSUS

Fateh Singh

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. K.C. Rajput, Advocate, for the petitioner.

...

1. Whether Reporters of local newspapers may be allowed to see the judgment? YES/NO
2. To be referred to the Reporter or not? YES/NO
3. Whether the judgment should be reported in the digest? YES/NO

...

ARUN PALLI, J. (Oral)

Petitioner had sought the ejectment of the respondent on two grounds i.e. the respondent had changed the user of the shop in question and had also carried out certain alterations which, in turn, had materially affected the value and utility of the premises.

Eviction petition filed by the petitioner was dismissed

by the Rent Controller, Sonapat vide order dated 28.04.2003. As even the appeal preferred against the said order failed, and was dismissed vide judgment dated 17.02.2004, petitioner-landlord is before this court, in this revision petition.

However, before this Court, learned counsel for the petitioner has confined his submissions only qua the finding as regards the change of user. It was maintained that the demised premises was let out to the respondent for running a tea shop, but he had started using the same for sale and storage of building material, without the consent of the petitioner.

In defence, it was pleaded, inter alia, that the premises in question was not taken on rent for any specific purpose, least for running a tea vend. And the fact regarding the respondent having started a business of building material about 8 years ago, was well within the knowledge of the petitioner, thus, she was estopped from seeking his ejectment on that ground.

On a due and comprehensive consideration of the matter in issue and the evidence on record, both the authorities concurrently concluded that although respondent was earlier using the premises as a tea shop, but later he started business of sale and storage of building material, however in the absence of any cogent or credible evidence, it could not be said that the demised premises was indeed let out for a specific purpose or to run a tea vend. And that being so, respondent was not required to solicit prior permission/consent of the petitioner while starting another business. Accordingly, it was concluded that starting

another business did not amount to change of user. Further, concededly, the shop in question was let out to be used for a commercial purpose and was indeed being used for the said purpose. Be that for storage and sale of building material. Evidence on record, rather, reveals that the respondent-tenant had started business of sale and storage of building material about 12 years ago i.e. almost 8 years prior to the eviction petition. That being so, it could safely be inferred that there indeed was no specific purpose for which the demised premises was let out to the respondent, for otherwise petitioner would have either served the respondent with a notice or would have filed an eviction petition without any loss of time. Learned counsel for the petitioner could not point out as to how the conclusions that have concurrently been recorded by the courts, were either contrary to the position on record or suffer from any material illegality.

That being so, no interference is warranted in exercise of revisional jurisdiction under Section 15(6) of the Haryana Urban (Control of Rent and Eviction) Act, 1973. Petition being devoid of merit is, accordingly, dismissed in limine.

OCTOBER 28, 2015
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(ARUN PALLI)
JUDGE