

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3273 of 2015(O&M)
Date of decision: 07.09.2015

Hardev Singh

... Petitioner

Versus

Sukhdev Raj

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Vijay Sharma, Advocate, for the petitioner.

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

ARUN PALLI J. (Oral)

Vide order dated 23.04.2014, rendered by Rent Controller, Ludhiana, eviction of the petitioner (tenant) was ordered from the demised premises on account of personal necessity of the respondent (landlord). Appeal preferred against the said order failed and was dismissed vide judgment dated 31.03.2015. This is how, the petitioner-tenant is before this court.

In an eviction petition, filed by the respondent-landlord, ejectment of the petitioner was sought, as the landlord required the demised premises for his personal use and occupation as also for his son Sham Sundar. It was maintained that son of the landlord was running a business of

embroidery and the premises in his possession was insufficient to meet his business requirements. As, landlord was also assisting his son, they both intend to expand their business and, thus, required the shop in question for their bona fide need.

In defence, it was pleaded, inter alia, that neither the son of the respondent was engaged in any business of embroidery nor the premises in his possession was insufficient to meet his requirement. In fact, Sham Sundar was running a PCO in a shop that too formed a part of the same building. There was yet another shop that was occupied by another tenant, who was carrying business in the name and style of Babbu Dog Shop. Further, the shop that was in occupation of the respondent was re-let to one Raman Kumar and, thus, need of the respondent was not conceived in good faith.

On a consideration of the matter in issue and the evidence on record, learned Rent Controller arrived at a conclusion that no doubt the shop that was earlier occupied by another tenant, in the name and style of Babbu Dog Shop, had fallen vacant during the pendency of the proceedings. However, it was proved that the said shop as also that was in possession of the landlord, were smaller in size than the demised premises. Further, the demised premises was more suitable to the nature of business of the respondent and his son. Particularly, for installing bigger machines to run the

business. As regards, letting out of the shop that was already in possession of the respondent-landlord, it was concluded that Raman Kumar Puri had joined landlord Sukhdev Raj and his son Sham Sundar as partner, pursuant to a partnership deed dated 26.05.2011 (Ex.AX). Accordingly, the eviction of the petitioner was ordered.

Being aggrieved against the said order, petitioner preferred an appeal. Appellate authority reviewed the matter in issue, evidence on record and on an analysis thereof, found itself in concurrence with the findings recorded by the Rent Controller. Consequently, the appeal was dismissed.

I have heard learned counsel for the petitioner and perused the paper book.

Learned counsel for the petitioner simply seeks to reiterate the submissions that were advanced before the courts below and rejected after a due and comprehensive consideration. No other argument was advanced.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the petition is liable to be dismissed for the reasons that are being recorded hereinafter.

In short, the case set out by the respondent was that the tenanted premises was required by the respondent for himself as also for his son Sham Sundar, who was engaged in an embroidery business. The shop that was in occupation of

the landlord and was being used for the said business was insufficient to meet their growing business requirements. The respondent and his son, who were jointly conducting the said business, intended to expand their business venture and, thus, required the demised premises. The accommodation in their possession was insufficient, as there was no space for storage of goods, raw material and for their labour to sit and operate the machines. Landlord Sukhdev Raj appeared in support in his claim as PW1 and proved his claim. Even, his son Sham Sundar appeared as PW2 and deposed in no uncertain terms that he does not own and possess any other property in the same urban area and had not vacated any such building. No just that, Balbir Singh (PW3) fully corroborated the case set out by the respondent and proved that the son of the respondent was indeed engaged in an embroidery business in one of the shops in their possession. Raman Kumar Puri, to whom the shop that was in possession of landlord was alleged to have been re-let, appeared as PW4 and testified that he had only joined the landlord i.e. Sukhdev Raj as partner, vide partnership deed dated 26.05.2011, Ex.AX. The shop that had fallen vacant during the pendency of the eviction petition, as recorded by both the courts, was smaller in size than the demised premises and was not suitable either to the landlord, even as regards his business needs. Needless to assert, once the respondent-landlord had

prima facie established his need, the presumption that permeates is that his need was bona fide. No evidence, least cogent, was led to rebut the said presumption.

Learned counsel for the petitioner could not point out as to how the conclusions that have concurrently been recorded by both the courts below were either contrary to the position on record or erroneous in law. Rather, he fairly submits that in execution of the order of eviction, premises has since already been obtained by the respondent-landlord.

In the wake of the position, as sketched out above, no interference is warranted, in exercise of revisional jurisdiction, under Section 15(5) of the Rent Act. Petition being devoid of merit is accordingly dismissed.

September 7, 2015
Rajan

(Arun Palli)
Judge