

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

C.R. No.415 of 2015

Date of Decision.12.03.2015

Anita Rani and others

.....Petitioners

Versus

Sunita Devi

.....Respondent

2. C.R. No.1476 of 2015

Prem Singh

.....Petitioner

Versus

Sunita Devi

.....Respondent

Present: Mr. S.S. Bhinder, Advocate
for the petitioner in C.R. No.415 of 2015.

Mr. Achin Gupta, Advocate
for the petitioner in C.R. No.1476 of 2015.

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?

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K. KANNAN J. (ORAL)

1. Both the revision petitions are from the same landlord and they are connected and arguments are made one after another.

2. The petitions were filed by the landlord having purchased property in the year 2008 contending for two grounds namely one, bona fide requirement for personal occupation for carrying a profession of canvassing for small saving deposits from public and the second requirement was that the building was in a dilapidated condition.

3. As regards the condition of the building, there had been two

versions. One by the landlord who made available an expert's report with photographs saying that the building had several horizontal cracks and one side of the wall was bulging from outside and it cannot take any additional load. He also stated that the building was in a seriously dilapidated condition and it would be unsafe to occupy the building. The tenant's version through an expert was that although there are cracks, they can be repaired and the condition as it is, the building would last for another 20-25 years and with some repairs, the life of building can also be prolonged. With the two conflicting versions, both the Courts have adverted to the merits of the respective reports and found that the report given by the landlord's expert was reliable with adequate proof regarding the quality of the building and how it could not survive any further advancement of years. The counsel for the tenant would argue that after all the petition had been pending for last 7 years and the evidence of the building expert produced on the side of the landlord could not have been true, for, if it was true, the building would have collapsed by now. I find this to be hardly worthy for acceptance, for, the tenant cannot assume proof of doom for himself and if the doom is not happening, to believe that it has vindicated the stand that the building is not dangerous or it does not require repairs. When we consider the issue of the building being not fit for human habitation and there is an expert evidence placed, unless it is shown to be seriously flawed in its report, mere contradictory evidence given by the tenant's expert cannot obtain any credence. We are not again looking for situation where the building will collapse the next day and the tenant would defy sitting in premises waiting for untoward incidents

to happen and if it did not happen, he shall be allowed to carry on. The approach of the Courts below cannot be faulted for the fact that they found the report of the landlord's expert to be worthy of acceptance. I will not, therefore, make any intervention in that regard.

4. As regards the bona fide requirement, the learned counsel's argument is that for the type of avocation that she carries on, she has to work in the field and would not require any permanent place to occupy to carry on such a business. Canvassing for deposits could involve some field activity but I cannot rule out the requirement of an office space where customers can come and take appropriate details about the various types of deposits which are available. A person who is in such an avocation for canvassing business for deposits need not necessarily be on the move at all times. If she wants to move in her own building for carrying on an avocation, which avocation itself was not in doubt, I will not find this to be a serious flaw in reasoning to make an intervention. The counsel appearing on behalf of the tenant which is the subject matter in C.R. No.415 of 2015 has an additional ground to resist namely that in the petition for eviction which the landlord had filed, she had averred that there is no other building except the property demised in his favour but would file yet another petition against another tenant that itself shows that she had another building. If there was a suppression of fact of instance of another building and it turns out in evidence that there is another building which is in her occupation that would disentitle her. If the landlady had taken action for eviction against other tenants and says that she has no other building, it must be read in the context that she took action against tenant in other building

and there is no suppression of fact.

5. I find no cause for interference in either of the revision petitions. Both the revision petitions are dismissed.

(K. KANNAN)
JUDGE

March 12, 2015
Pankaj*