

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

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**Civil Revision No.4243 of 2015(O & M)
Date of Decision:12.08.2015**

Sunita Angrish

....petitioner

Versus

Pardeep Sharma

.....respondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

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

Present: Mr.Vijay Lath, Advocate
for the petitioner

ARUN PALLI, J.(ORAL):-

The eviction petition filed by the petitioner-landlord was dismissed by the Rent Controller, vide order dated 25.03.2013. Appeal preferred against the said order also failed and was dismissed by the appellate authority vide judgment dated 09.03.2015. This is how, the landlord is before this Court, in this revision petition.

In an eviction petition filed by the petitioner, she sought eviction of the respondent (tenant) from the demised premises i.e. shop No.1 built on area measuring 8'-9" x 10', which formed part of property NL-193, Mohalla Mahendru, Jalandhar City. It was averred that the demised premises was required by the petitioner for her own personal use and bona fide need of her husband as he was unemployed and sitting idle. Petitioner along with her husband intended to start her own general merchants business in the demised premises. It was maintained that the petitioner does not occupy any

other property in any urban area in Punjab except the property No. NL-193, Mohalla Mahendru, Jalandhar City.

In defence, it was pleaded, inter alia, that the site plan placed on record by the petitioner was incorrect. In fact, property bearing No.NL-193, Mohalla Mahendru, Jalandhar City, was comprised of a residential premises as also 3 shops including the demised premises. However, the petitioner had neither depicted the said accommodation nor made any reference thereto in the eviction petition.

On an analysis of the matter in issue and the evidence on record, learned Rent Controller, Jalandhar, arrived at a conclusion that the petitioner in support of her claim had placed reliance upon site plan (Ex.P1). However, she had concealed that two other shops adjacent to the demised premises were also in her occupation and possession. Site plan (Ex.R3) proved by the respondent (tenant) as also the photographs Ex.R1/13 and Ex.R1/14 proved the existence of the said two shops. In fact, the construction of the other two shops, adjacent to the demised premises, was conceded by the petitioner in her cross examination. But maintained that those were small and insufficient. But she was unable to testify the length and breadth of those shops. Accordingly, the eviction petition was dismissed.

The petitioner being aggrieved against the order dated 25.03.2013, preferred an appeal. Learned appellate authority on a consideration of the matter in issue, material and evidence on record, concurred with the findings recorded by the Rent Controller.

Accordingly, the appeal preferred by the petitioner 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 were rejected after a due and thoughtful 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 instant petition is devoid of merit and is, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Concededly, the eviction of the respondent was sought on account of personal necessity as husband of the petitioner was purported to be unemployed, and the petitioner and her husband intended to start general merchants business in the demised premises. In the eviction petition, it was maintained in no uncertain terms that besides demised premises i.e.NL-193, Mohalla Mahendru, Jalandhar City, the petitioner did not occupy or possess any other property in the same urban area, nor had vacated ever since the promulgation of East Punjab Urban Rent Restriction Act, 1949 (for short 'the Rent Act'). Even in the site plan (Ex.P1) proved by the petitioner, only the demised premises was depicted. However, in the written statement filed by the respondent (tenant), it was un-ravelled that besides the shop in question, the petitioner also owned and possessed two adjacent shops and that too formed part of property bearing No.NL-193, Mohalla Mahendru, Jalandhar City. The petitioner did not controvert the said position by filing any replication.

In fact, she conceded in her cross examination the existence of the said two shops. The witness examined by the petitioner i.e. Sham Sunder (PW2) also admitted in his cross examination that the two other shops were adjacent to the demised premises and were owned and possessed by the petitioner. Photographs Ex.R1/13 and Ex R1/14 in this regard were conceded to be correct by the witness Sham Sunder (PW2). Explanation that was sought to be rendered by the petitioner in her cross examination that those two shops were small and insufficient, is of no consequence. As this was never the case set out by her, that though she possessed another accommodation, but the same was either insufficient or not suitable for her need. Rather, she maintained that she did not occupy any other accommodation in the local urban area and, thus, sought ejectment of the respondent. That being so, it was rightly concluded by the Courts below that the petitioner had purposely and with a design to mislead the Court had concealed such a crucial information and that alone was enough to vitiate her claim.

Learned counsel for the petitioner could not point out as to how the conclusions that have concurrently been recorded by the Courts below were either contrary to the position on record or were erroneous in law. That being so, no interference is warranted in exercise of revisional jurisdiction under Section 15 (5) of the Rent Act. The petition being devoid of merit is accordingly dismissed.

12.08.2015

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(ARUN PALLI)
JUDGE