

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

115

Civil Revision No.4582 of 2015

Date of Decision:10.08.2015

Raman Arora

....petitioner

Versus

Kamlesh Mehra

.....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.Anil Chawla, Advocate
for the petitioner

Mr.Veneet Sharma, Advocate
for the caveator/respondent

ARUN PALLI, J.(ORAL):-

Vide order dated 21.08.2014, the Rent Controller, Amritsar, ordered eviction of the petitioner (tenant) from the demised premises. Appeal preferred against the said order failed and this is how the tenant is before this Court in this revision petition.

In short, in an eviction petition filed under Section 13 of East Punjab Urban Rent Restriction Act, 1949 (for short 'the Rent Act 1949') by the respondent (landlord), the ejectment of the petitioner was sought on the ground of personal necessity as she required the shop in question for her own use, as also for use and occupation of her son namely Vivek Mehra for running a business. It was pleaded that the landlord had another two shops measuring 7'.3" x 28'

and 23'.10"x13'.3", wherein her husband Dalip Mehra and she herself were carrying on business of blankets and shawls for the last about 10 years. Since, it was not possible for the respondent to even settle her son, in the said premises, therefore, the eviction of the petitioner was claimed.

In the written statement filed by the petitioner, of course, it was maintained that the need being expressed by the landlord was untrue, in-genuine and lacked bona fides, and, thus, the petition required to be dismissed.

On a consideration of the matter in issue and the evidence on record, the Courts below concurrently found that the landlord appeared in support of her case as AW1 and substantiated her claim. Nothing was brought on the record to show that besides the demised premises, the landlord was in occupation of yet another premises in the same urban area, in which she could settle her son. As regards the adjacent premises, the same was occupied by the landlord herself and her husband for over a decade and business of blankets and shawls was being transacted by them. In reference to the decision of this Court in **Anil Kumar vs. Harpal Singh Banwait and another 2008(3) PLR 343**, it was concluded that once the landlord was able to establish a prima facie case as regards his necessity, presumption was that his need was true and bona fide, and thus, it was upon the tenant to rebut the said presumption. Plea of the petitioner-tenant that document Ex. R1, which is a photograph, shows that son of the landlord was already conducting business in the adjoining shop was rejected, as nothing was brought on record

to show that son of the landlord was either a partner or a sole proprietor in the business that was being run by his parents in the adjoining premises. The income tax returns for the assessment years 2008-09 (Ex.RW3/1), 2009-10 (Ex.RW3/2) and 2010-11 (Ex.RW3/3) brought on record by the tenant rather showed that those were returns of income from salary and not any business. Thus, there indeed was no evidence on record to show that he was managing or controlling the business being transacted in the said premises either as a partner or a sole proprietor. Consequently, the eviction of the petitioner was ordered.

I have heard learned counsel for the parties 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 respondent sought eviction of the petitioner as she required the demised premises to settle her unemployed grown up son namely Vivek Mehra. It was proved on record that in the adjoining premises, respondent herself and her husband namely Dalip Kumar Mehra were conducting business of blankets and shawls for over a decade, and, thus, it was not possible

to settle her son in the said business. She appeared in support of her claim as AW1 and substantiated her claim. So much so, petitioner himself i.e.Raman Arora RW-2 and his witness i.e.Amar Sharma RW-1, in their cross-examination, did not deny the requirement of the respondent viz-a-viz the demised premises, for opening a showroom to settle her son. The photograph Ex.R1 rather substantiates the claim of the respondent, for it depicts that her son was keen and old enough to conduct his independent business. If he was occasionally assisting and helping his father, it could hardly be said that he did not require the demised premises for setting up an independent venture. Nothing was brought on record, least any cogent evidence, to prove that Vivek Mehra was either controlling or managing the business affairs of his father or was a proprietor or partner in the said business.

That being so, no interference is warranted in the findings that have concurrently been recorded by the Courts below. Learned counsel for the petitioner could not point out as to how the conclusions arrived at by the Courts below were either contrary to the position on record or suffered from any material illegality.

In the wake of the position as set out above, there hardly exists any ground, least plausible in law, to interfere in exercise of revisional jurisdiction under Section 15(5) of the Rent Act, 1949. The petition being devoid of merit is accordingly, dismissed.

10.08.2015

(ARUN PALLI)
JUDGE