

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

C.R. No.4610 of 2015

Date of Decision.24.07.2015

Arvind Kumar etc.

.....Petitioner

Versus

Rajesh Kumar Ahluwalia

.....Respondent

Present: Mr. Sanjay Jain, Advocate  
for the petitioner.

**CORAM:HON'BLE MR. JUSTICE K. KANNAN**

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

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**K. KANNAN J. (ORAL)**

1. The tenant, who has been evicted on the ground that the building which was let out to him was unfit and unsafe for human habitation by the two courts below, is the revision petitioner before this Court. The tenancy was in relation to the shop and godown and it was in evidence through an expert that the godown had been decrepit with the roof of the wall completely damaged and the rafters having been eaten away by white ants. The contention by the learned counsel, by placing reliance on the judgment of the Supreme Court, is that if only one portion of the building is dilapidated, there will be no ground for eviction. The judgment is Piara Lal Vs. Kewal Krishan Chopra AIR 1988 SC 1432 wherein the Court was holding that if there was no finding that rest of the building was damaged or had become weak but there was roof of one room which was falling down, the Court will not justified in granting an eviction.

2. I cannot find this decision as laying down a law that in every situation where a landlord applies for eviction on the ground that the building which is let out has become unfit and unsafe for human habitation, the whole structure must have crumbled and fallen down on the tenant. If a portion of the building is dilapidated and it has started falling down in one portion, one cannot deny to the landlord a right of eviction, if the general condition of the building could be drawn from what had happened to one portion of the building. I would restrict the judgment of the Supreme Court to the facts of the particular case and will not hold that if a tenant in possession of a building complex and a portion of the building has fallen down, the landlord can secure eviction only for the portion which is dilapidated. It will lead to causing a serious infraction of the integrity of lease itself.

3. In this case if the property had been brought about on tenancy under two distinct transactions, one for shop and another for godown and if only the godown had been in dilapidated state, it should have been possible to retain the possession of the shop and allow for the tenant to continue with reference to a shop. But however, if a tenancy is integral in the sense that it is not only with reference to the shop but also with reference to a godown attached to it, it will be no argument in defence to plead that it is only a godown which is in bad state and therefore, there cannot be an eviction of the shop. It cannot be possible for Court to grant an eviction only with reference to a godown for that would mean recognizing a right of tenant to allow for continuance in lease in reference to a portion of the lease property.

4. I cannot accept an argument raised by the counsel that the

rafters which are eaten by white ants may be dispensed with and a new roofing can be done and that further it does not require a structural alteration of the building itself. It all depends on factual basis and if comprehensive findings of the Court below are that the building has become old and it would be dangerous to continue in possession, I would find that the ground of eviction that has been explained by the Courts below was on a reasoning which is surely unassailable.

5. The ground of intervention in revision ought to be only in two situations. One, where the Court has not taken note of any objective material which it was bound to do or it has committed serious error in the reasoning adopted to arrive at the decision that it committed. I find no such fallibility in the decision.

6. The counsel for the petitioner states that the tenant has been in possession of the premises carrying on business from 1987 and he will be very seriously prejudiced if the possession is given immediately. I grant five months to the tenant to vacate the premises which will fall on 31.12.2015. The tenant shall continue to pay the rent without any default and if there is any default for payment of rent, the period granted now for vacation of property shall stand withdrawn.

7. The civil revision is dismissed but with the above observations.

(K. KANNAN)  
JUDGE

July 24, 2015  
Pankaj\*