

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5267 of 2015(O&M)
Date of decision: 17.12.2015

Gaurav Gupta

... Petitioner

Versus

Gurdeep Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Bhavyadeep Walia, Advocate for the petitioner.
Mr. MS Longia, Advocate for the respondent.

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?

ARUN PALLI J. (Oral)

Vide order dated 07.11.2014, the Rent Controller, Patiala, ordered eviction of the tenant-petitioner from the demised premises i.e. a shop, on account of personal necessity. As the order of eviction was affirmed even by the appellate authority vide judgment dated 13.07.2015, the tenant is before this court vide this revision petition.

In brief, the case set out by the landlord was that he had a vast experience in selling spare parts of trucks and as the demised premises was situated in Hira Bagh, Patiala, where there were many shops of trucks' spare parts, the landlord intended to set up a similar business in the shop in question.

In defence, it was denied that the landlord actually needed the demised premises to set up any such business. Further, he was in possession of the basement as also the first floor of the demised premises and certain other properties.

On a consideration of the matter in issue and the evidence on record both the authorities concurrently concluded that landlord, Gurdeep Singh (PW1), appeared as his own witness and duly proved his claim. Rather, during cross-examination, he testified that he was idle and doing nothing except agriculture. Although, the tenant in his deposition maintained that the landlord was in occupation of another shop and was engaged in the business of property dealing, but nothing was brought on record to prove that he indeed was in occupation of another premises. Likewise, it also remained unsubstantiated that he was a property dealer. Though, even Chanan Singh, Building Designer/Draftsman (RW5) stated in his evidence that the landlord was in occupation of a basement of the demised premises and was a property dealer, but, conceded in his cross-examination that he actually did not know the landlord and had never even met him. Nothing could be indicated either that the accommodation (basement) in occupation of the landlord was suitable for the business, he intended to set up. Concededly, nothing was/is constructed on the first floor of the demised premises either, contrary to the claim of the tenant in the

written statement. Further, once the landlord had set out a prima facie case, the presumption that would prevail is that his requirement to occupy the premises was true and bona fide. And, nothing was brought on record to rebut the said presumption. For, the evidence on record proved that the landlord was idle and unemployed, thus, his need to occupy the premises was found to be true and genuine. The argument that is being advanced by learned counsel for the petitioner; that the landlord had not disclosed in the eviction petition that he was in occupation of the basement of the demised premises, though mandatory in terms of the provisions of Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short, 'the Act'), and thus, the eviction petition was liable to be dismissed on that score alone, lacks conviction and cannot be countenanced. Likewise, the reliance placed upon **Ajit Singh and another v. Jit Ram and another**, 2008(4) RCR 390, and **Shankar Lal v. Madan Lal and others**, 2011(1) RCR (Rent) 139, do not advance the case of the petitioner a bit, as is being demonstrated hereinafter.

Concededly the premises in question is a shop and in the eviction petition the landlord had pleaded, in no uncertain terms, that he was neither in occupation of another shop in the same local urban area nor had vacated any without a sufficient cause. And, he indeed has none in the same local urban area. As regards the basement, certainly it is

not a shop but just another accommodation that was in his occupation. And, in any case, no prejudice is suffered by the tenant, for the fact that landlord was in vacant possession of the basement was duly and comprehensively evaluated by both the authorities, before reaching a conclusion that the said accommodation was not suitable for the landlord to meet his business venture. In any case, the requirement as also the suitability to occupy the demised premises was to be judged solely from the stand point of the landlord, and the tenant can not hardly suggest him to meet his need/requirement by utilizing the basement. Thus, the only and inevitable conclusion that could be reached is that the need of the landlord to occupy the demised premises was bona fide and conceived in good faith.

That being so, no ground is made out to interfere with the orders being assailed, in exercise of revisional jurisdiction, under Section 15(5) of the Act. Petition being devoid of merit is accordingly dismissed.

December 17, 2015
Rajan

(Arun Palli)
Judge