

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

CR NO.530 OF 2015 (O&M)
DATE OF DECISION : 23rd JANUARY, 2015

M/s. New Chandigarh Diesels & others

.... Petitioners

Versus

Munish Kapur & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE SURINDER GUPTA

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Present : Mr. Arun Jain, Senior Advocate with
 Mr. Chetan Salathia, Advocate for the petitioners.

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SURINDER GUPTA, J. (ORAL)

1. Heard.
2. The respondent-landlord sought ejectment of the petitioner from the demised premises and one of the ground pleaded in para 6 of the petition reads as follow:

“That at present the said SCO of Sector 26, is in possession of different tenants and being co-owner to the extent of 25% share, the petitioner is not able to use the said SCO independently. The other co-owners do not agree that the petitioner could use the ground floor portion for running his business properly. At present, the petitioner being proprietor of M/s Perky Agency is running the business of pharmaceuticals and is holding

C&F of M/s Amil Pharmaceuticals. For the purpose of running the business, the petitioner has also taken on rent the rented accommodations for use as godown at Zirakpur and Panchkula. About 1000 sq. ft. space has been taken on rent in village Pabhat and 500 sq. ft. space taken on rent in Plot No.107, Industrial Area, Phase-I Panchkula. The petitioner has no place in Chandigarh to store his material in Chandigarh. Even the business place provided by the other co-owners in the SCO of Sector 26 is insufficient. At present, the petitioner is using part of a room of 1100 sq.ft. alongwith M/s Triveni Enterprises, whose proprietor is Ms. Priya Marwaha and the said space is insufficient for the purpose of running the business by the petitioner properly. The other co-owners have provided 1100 sq.ft. space to both the concerns on the second floor of the SCO, which is not suitable and sufficient.”

3. This revision petition has been filed against the order dated 08.01.2015 whereby the application seeking amendment of written statement was declined. By amending the written statement the revision petitioner intended to plead that the part of property No.SCO-7, Sector-26, Chandigarh, has been vacated by various tenants during the pendency

of the petition and now sufficient accommodation is available to the landlord-respondent to carry on his business at Sector-26.

4. Learned Rent Controller dismissed the application finding the plea, sought to be raised, as irrelevant for the purpose of deciding the ejectment petition and also took note of the fact that the only purpose of the revision petitioner was to delay the proceedings.

5. Learned counsel for the revision petitioner submits that the purpose of seeking amendment is to bring on record that the part of the premises where the respondent-landlord is carrying on business has been vacated by the tenant. That premises is owned by the father and sisters and respondent-landlord himself, as such, now sufficient accommodation is available with him to carry on the business, eclipsing his personal bonafide necessity projected for the demised premises.

6. I have perused the petition, copy of which has been made available by counsel for the revision petitioner and find that the ground for seeking ejectment put forth by the respondent-landlord is not limited to the extent that the accommodation provided to him by the other tenants in SCO-7, Sector 26, Chandigarh is insufficient, but also that to carry on the business he has taken different premises on rent at Zirakpur and other places. The perusal of the order shows that the ejectment petition is pending for the last more than five and half years. Plea, sought to be taken by way of amendment is based on the statement of petitioner recorded in March, 2013 and May, 2013. This application has been filed in November, 2014 and this supports one of the reasons for declining the

application by Rent Controller that the only purpose of the revision petitioner is to delay the proceedings.

7. Even otherwise, in view of the settled principal of law the tenant is nobody to dictate or guide the landlord as to how, where and in what manner he has to carry on his business activities. The petition will be decided on merits based on the evidence led by the landlord as well as the tenant. Petitioner has already explained in petition that he has been given specific portion of SCO No.7, Sector 26 by other co-sharers. In these circumstances and if some more portion of that SCO has fallen vacant, it is irrelevant to need for demise premises, projected by respondent-landlord.

8. Perusal of the order of the Rent Controller shows that it suffers from no legal or factual infirmity calling for interference by this Court. This revision petition has not merits.

9. Dismissed.

23rd January, 2015
'raj'

(SURINDER GUPTA)
JUDGE