

**C.M. NOS.17825-17826 CII OF 2015 &
C.R. NO.5632 OF 2015**

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

DATE OF DECISION: SEPTEMBER 14, 2015

Parmod Kumar

.....Petitioner

VERSUS

Sudesh Kumari and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI

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

Present: Mr. Annkur Soni, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASI, J. (ORAL)

Challenge in this petition is to the order of eviction dated 23.03.2012 passed by the Rent Controller, Hoshiarpur, which has been upheld by the appellate Authority vide judgment dated 03.07.2015 on the ground of personal necessity.

It is the contention of learned counsel for the petitioner that the respondent-landlady has admitted in her cross-examination that she is residing at Faridabad, which is a house owned by her alongwith her husband and son and further that the house behind the shop is in a dilapidated condition and she does not intend to reconstruct the same and, therefore, there is no likelihood of respondent-landlady to come to the place like Hoshiarpur and stay there with her husband, who, during interregnum, has

suffered a paralytic attack and is bed ridden and required constant care. If that be so, she would not be able to run her confectionary shop in the demised premises. He, thus, contends that the orders passed by the Courts below deserve to be set-aside. In support of the contention that subsequent events can also be taken into consideration by the Court, he has placed reliance upon Mohd. Ismail Vs. Dinkar Venayakrao Dorlikar, 2010 (2) PLR 670, Arun Vig Vs. Maya Guglani, 2013 (1) R.C.R. (Rent) 274, Manpreet Arora Vs. Jagan Nath, 2000 (1) RentLR 111, Jai Prakash Gupta (D) thr. Lrs. Vs. Riyaz Ahamad & Anr., 2010 (2) PLR 673 and Kedar Nath Agrawal (Dead) Vs. Dhanraji Devi (Dead) by LRs, 2004(9) JT 113. He, thus, contends that in the changed circumstances, the respondent-landlady would not require the shop for her personal necessity as she would not be able to run the same as a confectionary shop.

I have considered the submissions made by counsel for the petitioner and have gone through the orders passed by the Courts below.

The reasoning assigned by the Courts below do not call for any interference as there is ample evidence on record to suggest that the respondent-landlady does require the demised premises for starting her own business i.e. the confectionary shop, which is a personal necessity for her as it has been said that her husband, who has retired, is not getting any pension and the pension of the respondent-landlady alone would not be enough for survival.

The subsequent event, which has been sought to be highlighted by counsel for the petitioner through C.M. No.17826 CII of 2015 is that husband of respondent-landlady has suffered a paralytic attack because of which he is bed ridden and, therefore, needs constant care. However, the

said submission cannot be accepted as there is no documentary evidence on record supporting the said averment. Bald assertion in this form, as is being sought to be projected by way of an application referred to above, cannot be taken into consideration, especially when there is no evidence in support thereof nor has any application for additional evidence being filed. Assuming that the assertion of the petitioner-tenant is accepted, there is nothing on record, which would suggest that the respondent-landlady would still not want to come back to the place at Hoshiarpur and start her business as it would rather be now more essential for her to start business with her husband, who needs constant care, for which she would have to hire someone to take care of him, which is an added/extra expense. It cannot be said that she alone can take care of her husband but she can engaged someone to look after him and she can run her own business of confectionary shop.

The judgments, on which reliance has been placed by counsel for the petitioner, would not be of any help in the present case as those are cases where proper evidence was led and brought on record as per the statutory requirements, which was taken into consideration by the Courts while deciding the same.

Therefore, in view of the above, finding no merit in the present revision, the same stands dismissed.

**September 14, 2015
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**(AUGUSTINE GEORGE MASIH)
JUDGE**