

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5452 of 2014(O&M)
Date of decision: 21.10.2015

Raj Kumar

... Petitioner

Versus

Gurdwara Sangatpura

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Ashish Aggarwal, Advocate for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not? YES
3. Whether the judgment should be reported in the digest?

ARUN PALLI J. (Oral)

Ejectment of the petitioner was ordered from the demised premises i.e. a shop, vide order dated 23.09.2011, rendered by the Rent Controller, Amritsar. As even the appeal preferred against the said order failed and was dismissed vide judgment dated 21.03.2014, tenant is before this court vide this revision petition.

Briefly, in an eviction petition filed by the respondent, ejectment of the petitioner was sought on multiple grounds such as non-payment of arrears of rent, premises being unsafe and unfit for human habitation, change of user and personal bona fide need of the respondent. It was maintained that the respondent i.e. Gurdwara Sangatpura, situated at G.T. Road, Chheherta, Amritsar, happened to be

the landlord as also the owner of the demised premises. And the affairs and management of the Gurdwara were being run by a duly constituted Prabhandhak and Welfare Society.

In defence, it was admitted that respondent-Gurdwara Sangatpura was the owner of the demised premises. But as regards the building being unfit and unsafe for human habitation, it was stated that there was no cracks in the walls and the shop in question was fit to conduct business. Further, the premises was let out to the petitioner to carry out cycle repair works and the same was being used for the purpose it was let out. Insofar as the personal bona fide need of the respondent, it was averred that the existing passage leading to Gurdwara was sufficient and thus, the respondent did not require the premises for any expansion.

On a due and comprehensive consideration of the matter in issue, and the evidence on record, both the courts concurrently concluded that the eviction petition was filed by the respondent through Kashmir Singh (AW1), who was duly authorized vide a resolution Ex.A2. To prove that the premises in question had indeed become unfit and unsafe for human habitation, respondent examined Parmanand Civil Engineer/building expert (AW3), who proved his report in original as Annexure A4 and the site plan as Annexure A5. An analysis of the said report reads as thus:

“... it is found that overall condition of the shop building is not satisfactory. Being an old structure building it has out lived its age and utility. The material used in the construction of the building has lost its adhesive power and strength. The walls are cracked and bulged out in a dilapidated condition. At certain places, due to the falling of plaster, the walls with deteriorated bricks have become naked. Roof has sagged down much and its remaining portion is in a damaged condition. He has also mentioned in his report that condition of the building is beyond repairs and it requires reconstruction from its foundation. The reconstruction is not possible without getting the same vacated and condition of the shop is not fit and safe for human habitation.”

As opposed to this, petitioner never examined any witness or building expert to rebut the evidence led by the respondent. Only a report of the Local Commissioner, appointed in an injunction suit, was relied upon, but even a copy of the said report was never produced on record by the petitioner. Evidence on record proved that the building in question was in a dilapidated condition and had, thus, become unfit and unsafe for human habitation. Evidence led by the respondent showed that the premises was let out for running a business of cycle repairs. The petitioner did not dispute this position, which was further substantiated by the testimonies of none other but RW1 & RW2. But the petitioner was conducting the business of wood works in the premises,

without the consent and permission of the respondent-landlord. Insofar as the personal bona fide need and requirement of the respondent, it was concluded that Kashmir Singh (AW1) has specifically stated in his affidavit that the premises in question was required for expansion and broadening the passage leading to Gurdwara Sahib. The position that was duly substantiated in the testimony of Arwinder Singh Draftsman (AW2) and the site plan prepared and proved by him. He proved that there indeed existed only 6 feet wide passage and, thus, the same required expansion to have a free and convenient access to Gurdawara Sahib. Particularly, for over a period of time, the number of devotees visiting the institution had increased. And, about 400/500 pilgrims were visiting the institution every day to pay obedience. So much so, ejectment petition was filed by the respondent even against the other tenants and the orders of ejectment were passed against them. The evidence led by the respondent to substantiate his bona fide need remained unrebutted, as none of the witnesses examined by the respondent was cross-examined by the counsel for the petitioner on any of the vital aspects. Not even a single suggestion was put to any of the witnesses as regards the genuine and bona fide need of the respondent to repossess the premises. And petitioner virtually conceded the correctness of the case of the respondent as regards its bona fide necessity.

Learned counsel for the petitioner could not point out as to how the conclusions that had concurrently been arrived at by both the courts, as regards even one of the ground upon which the ejectment was being claimed, was either contrary to the position on record or suffered from any material illegality.

That being so, no interference is warranted in exercise of revisional jurisdiction, under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949. Petition being devoid of merit is accordingly dismissed.

October 21, 2015
Rajan

(Arun Palli)
Judge