

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5965 of 2015(O&M)
Date of decision: 22.09.2015

Ramesh Chander

... Petitioner

Versus

Aggarwal Sabha

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rai Singh Chauhan, 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)

Vide order being assailed, dated 17.01.2014, rendered by the Rent Controller, Pathankot, eviction of the petitioner had since been ordered on account of personal necessity and as he had even ceased to occupy the demised premises i.e. a shop. Since even an appeal preferred against the said order failed and was dismissed vide judgment dated 22.07.2015, tenant is before this court vide this revision petition.

Briefly, the case set out in the eviction petition was that respondent-landlord i.e. the Aggarwal Sabha, is a Society, registered under the Societies Registration Act XXI of 1860 (for short, 'the Act'). And the Sabha had purchased an immoveable

property, vide sale deed dated 14.03.1984, and the demised premises was a part thereof. Petitioner was inducted as tenant @ ₹ 130/- per month about 30 years ago. The premises was let out for running the business of carpentry. The Sabha has been engaged in multiple activities concerning public good. A free dispensary was being run for providing medical facilities to all the needy and poor in the city from a portion of the property owned by the Sabha. Since the accommodation, that was being used to carry out this activity, had become insufficient with efflux of time, the demised premises was required so that it could be amalgamated with the existing accommodation already in occupation of the respondent. Further, the demised premises was lying closed for years, and thus the tenant had ceased to occupy the same.

In defence, it was pleaded, inter alia, that the alleged need of the respondent lacked bonafides, as the eviction petition was filed just to harass the petitioner. All other material allegations were denied and the petitioner prayed for dismissal of the eviction petition.

On a due and comprehensive consideration of the matter in issue and the evidence on record both the authorities concurrently concluded that concededly an electric connection was installed in the premises but the evidence brought on record by the respondent, along with other documentary proof of consumption data and statement of

bills, showed that the premises remained closed for a period of more than four months without any reasonable cause. Tenant-Ramesh Chander (RW2) had maintained that furniture work was still being carried out in the premises. And one fan, three tube-lights, one cooler and a cutter for cutting the wood were installed in the shop. Every variety of wood was being used by the petitioner to make furniture. However, the records (Ex.A5) proved that consumption of electricity from February 2001 to March 2002 was zero. Only one unit was consumed in May 2002. From July 2002 to March 2003, the consumption of energy was again zero. Only one unit was consumed in May 2003 and then from July 2003 to May 2005, the consumption was again zero. Only three units were consumed in November 2005, but from January 2006 to November 2006 the consumption of energy was again zero. Only 17 units were consumed from January 2007 to June 2008 and from May 2008 to March 2009, the consumption of energy was nil. As the eviction petition was filed on 01.12.2008, and since there was no consumption of electricity continuously for a period of four months, at a stretch, it could not be maintained that any work was being carried out in the premises with the aid of electricity, electric appliances and machinery. As regards personal necessity, it was concluded that the evidence on record proved that the demised premises was indeed required bonafidely by the respondent for its use and occupation.

Nothing was brought on record to show that the eviction petition was filed with any ulterior motive to seek the ejectment of the petitioner. Further, no evidence was led to prove that the respondent possessed or occupied any other suitable accommodation to meet its requirement. Moreover, mere existence of a vacant land adjacent to the demised premises and the dispensary, was hardly of any consequence, as landlord was the best judge of his requirement and the tenant could not dictate him to meet his need by utilizing a vacant piece of land. Even otherwise, vacant land adjacent to the premises was not feasible to meet the requirement, for the photograph Ex.A15 on record showed that there were overhead high-tension wires that were hanging over the said land. The position that was fortified from the testimony of Narinder Saini, RW3, who prepared the site plan Ex.R1. Consequently, ejectment of the petitioner was ordered.

I have heard learned counsel for the petitioner and perused the paper book.

All what the learned counsel for the petitioner has urged is that land adjacent to the demised premises, that was owned and possessed by the respondent, was lying vacant. And thus, if at all, the need of the respondent was so grave and urgent, the same could be met by utilizing the said piece of land.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the petition in hand is wholly devoid of merit and is, thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Petitioner Ramesh Chander (RW2) maintained on oath that he was still in occupation of the premises and the same was being used for conducting business. Further, every kind of a wood was being used for making furniture. But neither any bill nor a receipt was brought on record to prove that he had bought any raw materials or other articles which are required for carpentry or to make furniture. Not just that, no evidence was led to show that he indeed had transacted any business and sold any material. No customer was examined either to substantiate this position. Nothing was brought on record to show that he indeed had employed certain hands for his assistance to substantiate his plea. Electricity consumption data and other evidence on record show that consumption of electricity was almost nil for years.

As regards, personal bona fide need; concededly, the respondent-landlord i.e. the Aggarwal Sabha, is a Society, registered under the Act. Vide a sale deed dated 14.03.1984, respondent had purchased an immoveable property and the demised premises was a part thereof. The shop in question is bounded on the northern side by the building of the respondent Sabha, on the southern side by a road, on the

eastern side by a street and on the western side, again, by the property of the Sabha. Concededly, a dispensary is being run by the Sabha from a portion of the aforesaid property, to provide free medical facilities to all the needy and poor in the city. The case set out by the respondent-landlord is that the accommodation in their possession, over a period of time, had become insufficient to cater to number of patients, who were visiting the dispensary everyday to avail the free medical facilities. And, the respondent even intended to start free operations or surgeries. Respondent landlord examined its Manager i.e. Ashok Kumar (AW2), who duly proved its claim. The site plan (Ex.P1), proved on record by the draftsman, Rajesh Kumar (AW1) rather revealed that amalgamation of the demised premises with the portion in which a free dispensary was already being run was the most viable and feasible option. Rather, suggestions put to Ashok Kumar (AW2) by none other than the petitioner in his cross- examination proved that the respondent Sabha was engaged in multiple activities such as cultural, social and charitable. As for the 3-4 rooms that were in occupation of the landlord in the adjoining building, the same were being lent by the Sabha to the inhabitants of the town for performing marriages and other ceremonies. Nothing was brought on record to prove that the respondent was either in occupation of another accommodation or had vacated any without a sufficient cause in the same local urban area. The

argument that has been advanced by learned counsel for the petitioner cannot be countenanced either. Needless to assert that suitability as also the requirement of the respondent-landlord has to be judged only from his standpoint. Therefore, petitioner could hardly suggest that the respondent could utilize the vacant area in its occupation, adjacent to the demised premises, and construct the required infrastructure to meet its need.

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.

September 22, 2015
Rajan

(Arun Palli)
Judge