

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.813 of 2015

Date of Decision.17.03.2015

2. C.R. No.819 of 2015

Surinder Kumar

.....Petitioner

Versus

Asha Rani

.....Respondent

Present: Mr. Sameer Sachdeva, Advocate
for the petitioner.

Mr. Naresh Kumar Manchanda, Advocate
for the caveator.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. Both the revision petitions are connected and they are being disposed of by a common order.
2. The petitions are against the concurrent orders of eviction obtained against the tenant at the instance of landlord who required the premises for the bona fide necessity of starting a business in computer repairs and computer education for the son of the landlord. The petitioner sought to give out evidence of the computer skills by reference to the fact that the son of the landlord had obtained a BCA degree from Sikkim Manipal University and produced the degree certificate and the mark-sheets. The petitioner's contention was that the demised premises were adjacent to yet another shop which was in the hands of another tenant against whom also the eviction was sought

so that all the three shops put together to form a comprehensive location for establishing the business for the son.

3. The landlord's requirement was challenged by the tenant on the ground that the son had just been married and he was also doing business in sale and purchase of dogs and his own wife was working in bank and there was no need for him to establish the business. To him even the degree which the son claimed that he had obtained was not true and the degree certificate produced before the Court was forgery. On the evidence given by the landlord that her husband was a paralytic but he was running a karyana shop, the tenant sought to rely on the admission by the landlord that her husband was still attending to the business and if the husband was looking after the business, there was no need for the son to start a new business. The tenant would contend that the landlord had sought for ejectment on the ground of non payment of rent and as soon as the rent was paid, the petition had been filed on a different ground. The further objection by the tenant was that the landlord has obtained vacation of one adjacent building which is still vacant and the landlord has not started the business which he would have done if the requirement was bona fide.

4. The Courts below have considered the issue of bona fides from the point of the view of the fact that the son himself was not gainfully employed other than the fact that he was said to be doing business in sale and purchase of dogs. I cannot find this to be a full time activity and even the fact that the father was running a karyana shop ought not to mean that the son who has obtained a degree in computer education should not take a new avenue by running a business for

himself. The world of business goes by an elastic demand for more money and it will be no argument for a tenant that the husband of the petitioner was running a karyana shop and therefore, there was no requirement for the son to start a new business. Even the fact that her husband was running a karyana shop or the petitioner's son himself was doing some work in business of purchase and sale of dogs cannot mean that a new business cannot be started. If he has the credentials then it is fair enough that the son thinks of establishing a business in computer. It is not as if the landlord has concealed the fact that there is yet another building which is available. It has been stated that the other building which is available is in the hands of a tenant for which an eviction is taken. So long as the property is required to be used for the same business, I will find no reason to suspect the genuine requirement of the landlord by the only fact that an earlier action for eviction was not pressed forth when the ground made earlier was for non-payment of rent and that ground did not any longer survive when the amount is paid.

5. The manner of intervention by this Court shall be on the issues where the Courts below have not properly addressed the points of contention raised. I find that every point which has been urged before me has been squarely answered by the Courts below. There is no reason for reversing or modifying the decree of ejectment already passed. The counsel says that the petitioner has been running a photography business for the last 25 years and he must be given sufficient time to vacate the premises. It is also brought out in evidence that the tenant has himself carried out a new construction nearby and he will not be seriously

prejudiced if he is to vacate the premises. Considering the fact that the landlord has secured vacation of one portion of the building from another tenant, he will have time enough to get the work started with the existing building, I would allow for five months' time for eviction from the premises provided the tenant gives the letter of undertaking to this Court and files the same within a week in the registry. He will vacate the premises before 31.08.2015. During all the time, the petitioner shall also pay rent regularly without any default within 10 days of every calendar month. If there is any failure on his part to pay the rent or if there is any failure to submit the undertaking as directed by this Court, the order of eviction already passed will operate *eo instante* and the petitioner will be liable for ejectment in accordance with law.

6. Both the revision petitions are dismissed.

(K. KANNAN)
JUDGE

March 17, 2015
Pankaj*