

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

C.R. No.3353 of 2002

Date of Decision.13.03.2015

Som Nath Kumar

.....Petitioner

Versus

Joginder Singh

.....Respondent

Present: Mr. G.C. Dhuriwala, Advocate
for the petitioner.

Mr. O.P. Hoshiarpuri, Advocate
for the respondent.

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.

1. The petition for eviction on the personal requirement was dismissed by both the Courts below. The landlord would contend that his plea for personal requirement must be accepted without more when he was making contention that he was working in government service and he was due for retirement and therefore, he was expecting to go to his place in Jalandhar to start a business. Indeed, the requirement was also on the ground that under Section 13-A he was going to retire from service and that the property is required immediately for his business.

2. The Rent Controller as well as the Appellate Court found that the landlord had suppressed the fact that he had actually sought for extension of service and gained also such extension and the contention made by him that he was going to retire from service and that he would

require the premises was, therefore, not acceptable. Now there is an additional reason why the said ground cannot be considered namely that the petitioner himself has expired and his legal representatives have been added. The requirement of the landlord under Section 13-A does not, therefore, survive.

3. As regards the personal requirement, the finding of the two Courts below was that the landlord owned a vacant room at the first floor of the demised premises and being vacant, it should have been set forth in the petition and if for any reason the said property was not sufficient for occupation, there should have been an explanation given in the petition. The requirement under Section 13(3)(i) is to make the fact of availability of another property an aspect of essential pleading and the said fact had not been pleaded. The existence of vacant building was demarcated as 'X' in the site plan exhibited before the Court as Ex.R1. The petitioner has actually admitted the existence of the building in the cross-examination at the first floor and that it is in his possession. The findings of the two Courts below are, therefore, perfectly justified.

4. Learned counsel for the petitioner has cited several decisions before me that have examined the issue of bona fides and through illustration of a person who intends actually to shift to yet another town to claim the bona fides of necessity and if he expresses the intention, that is sufficient. This is to explain the evidence in Court that his sons had actually left Jalandhar and they were doing business in Chandigarh where the petitioner himself was living at the time when the petition was filed. The attempt of the petitioner was, therefore, to show that there is nothing that can prevent the sons to go back to Jalandhar to establish

the business. I will not have any reason to reproduce of the decisions because the petition is flawed by the fact that the existence of another portion of the building which was in his possession at the first floor was not set forth in the petition and the existence of such building was admitted in evidence and therefore, no reason given as to why he or his son cannot establish the said business in the said property at the first floor of the demised premises.

5. The orders passed by the Courts below are maintained and the revision petition is dismissed.

(K. KANNAN)
JUDGE

March 13, 2015
Pankaj*