

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

Date of decision : 01.03.2016

..... Petitioner

versus

..... Respondent

Present : Mr. Suvir Sidhu, Advocate
for the petitioner.

Mr. Rajan Bansal, Advocate
for the respondent.

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?

AJAY TEWARI, J. (Oral)

This petition has been filed against the concurrent orders evicting the petitioner from the property in dispute.

The property in dispute is 4 rooms on the ground floor of a residential building situated in the area of Panchayat Mandir Wali Street on the backside of Handiaya Bazar near Aggarwal Janj Ghar, Barnala. After his retirement, the respondent filed the instant petition claiming that he wanted to start his business in the premises in dispute. Both the Courts found the necessity to be bonafide and allowed the petition.

The only argument raised by learned counsel for the respondent is that once the premises were residential the landlord could not seek eviction on the ground that he needed the premises for a non-residential purpose.

In this connection the Courts below have noticed that the petitioner had himself admitted non-residential use of the property in dispute since he stated that he is using it as a godown and held that it was not a case where residential property was being converted into non-residential property. Learned counsel for the petitioner has relied upon *Rattan Lal Vs. Ms.Laxmi Devi, 1971 PLR 86* and order passed by this Court in *M/s Bharat Electricals through its partner Superinder Kumar and another Vs. Dr. Sukhdev Raj Goyal and another, CR-7649-2010 decided on 14.02.2012*. He has further argued that in this case there was access from the demised premises to the main house and therefore, it could not be held that the premises were non-commercial.

Learned counsel for the respondent however points out that this is the case of the petitioner himself that though there was a door, it has been closed since the inception of the tenancy and as a point of fact the landlord could not access the building from the shops.

In my opinion the argument of the learned counsel for the respondent carries more weight. The question is the user of the building. Here it is admitted to be non-residential and the petitioner has closed the means of access from the demised premises to the rest of the building, leaving the landlord no option but to use the other access which was there

from the rear.

It may be noticed that the judgments referred were in cases under Section 13 (A) of the East Punjab Urban Rent Restriction Act, 1949 and as such are not applicable to the facts of the present case where the eviction was sought under Section 13 Act *ibid*.

Petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 01, 2016

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**