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

C.R. No.1206 of 2016 (O&M)

Date of Decision : 26.02.2016

Sh. Avinash Sharma

..... Petitioner

Versus

Sudershan Kumar Anand (deceased) through LRs.

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Raktim Gogoi, 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?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

This revision has been filed against the concurrent orders of the Courts below evicting the petitioner-tenant from the demised premises on the ground of personal necessity of the respondent-landlord.

The petitioner-tenant is in the possession of Ist, IInd and IIIrd floor of the demised premises and the ground floor is stated to be vacant since 2009. The respondent-landlord filed an eviction petition on the ground that he wanted to run a hotel in the premises in dispute to settle his son. The plea taken by the petitioner was that in fact the landlord had many properties in Dalhousie including some hotels and the present petition was merely a ploy to get the premises vacated so that the same could be let out

for higher rent. As mentioned above both the courts below found that the respondent had established his bonafide necessity and ordered the eviction of the petitioner.

Learned counsel has argued that the ground floor of the premises were earlier on rent with Bata Shoe company and that was got vacated and the respondent had even given a notice to sell the same and as per him this betrayed the real design of the respondent that he did not want the premises for himself but only wanted to encash it after getting it vacated from the petitioner who had been in occupation of the demised premises over the last half century. This fact had been considered by the Rent Controller, who however, rejected it by observing that those premises were got vacated after the filing of the present petition and also that it was not the case of the respondent that he wanted to run a single unit in both the premises i.e. the ground floor and the premises under the tenancy of the petitioner. The Appellate Authority also rejected this contention by observing that the present petition was filed much before that premises got vacated and that the subsequent notice to sell of the ground floor could not automatically mean that there was no requirement for the Ist, IInd and IIIrd floor. For this it sought support from the judgment of the Hon'ble Supreme Court in the matter of *M/s Sait Nagjee Purushotham and Company Limited vs. Vimalbai Prabhulal and others, reported as 2005(2) RCR 437*, wherein it was held as follows:-

“Learned counsel for the appellant submitted that in fact this plea of either starting business or expanding it at Calicut is nothing but sham and it was also pointed out that some of the

sons have multifarious activities and are already established in some other business and one of the sons i.e. respondent No.9 had already gone to United States of America and he has settled there. Therefore, the need is not bona fide. We fail to appreciate that when two sons are there and if they want to expand their business at Calicut then it cannot be said that the need is a sham one. It is not possible for the landlords and their sons to wait till the disposal of the case. They have to do something in life and they cannot wait till the appellant is evicted from the premises in question. It is common experience that landlord tenant disputes in our country take long time and one cannot wait indefinitely for resolution of such litigation. If they want to expand their business, then it cannot be said that the need is not bona fide. It is alleged that one of the sons of the landlords has settled in the U.S.A. That does not detract from the fact that the other sons of landlords want to expand their business at Calicut. Indian economy is going global and it is not unlikely that prodigal sons can return back to mother land. He can always come back and start his business at Calicut. On this ground we cannot deny the eviction to the landlords. ”

In my opinion, the finding of the authorities below cannot be said to be vitiated. It is not unknown for a hotel to be run on the first floor upward. There are many premises where the ground floor is being used as a showroom and a hotel is being run on their higher stories. The Hon'ble Supreme Court in the case of ***Sarla Ahuja vs. United India Insurance Company, reported as AIR 1999 SC 100***, has held that in the first instance the Rent authorities have to start with the presumption that the bonafide need is there and it is for the tenant to rebut this presumption and, merely by

saying that the landlord is selling one portion, it cannot be invariably held that his entire need is not bonafide.

The observations of the Hon'ble Supreme Court in the above cited cases apply with full forces to the facts of the present case. Consequently, this revision is dismissed.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

February 26, 2016
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(AJAY TEWARI)
JUDGE