

Civil Revision No. 2104 of 2014(O&M)
Date of decision : 06.01.2016

versus

- AJAY TEWARI, J. (Oral)**

The admitted facts are that the petitioner is a retired Government servant who filed the present eviction petition for the ejection of the respondent from his shop on the ground of his personal

necessity. Both the Courts found that the petitioner and his wife were retired Government servants who were earning handsome pension and had got substantial amount apart therefrom by way of retirement benefits and both their children were well settled. On these facts the Courts below came to the conclusion that it was unlikely that the petitioner would start a shop and, therefore, dismissed the petition.

Learned counsel for the petitioner has argued that merely the fact that the petitioner is comfortably off can be no ground to come to the conclusion that he does not need the shop for his bona fide use. As per him some times a person needs an occupation not only for earning money but to occupy his time and merely lack of requirement of money can never be taken to be proof of the fact that a person does not want to work any more. Learned counsel for the respondent has argued that conduct of the petitioner can well be gauged from the judgment Ex.ZZ. That was a case where the petitioner had earlier filed a petition for ejectment of the present respondent from the Chaubara on the top of the shop in question on the ground of personal necessity which was dismissed by the Rent Controller by holding that the petitioner had not disclosed that he had a residential house in Kotkapura. As per learned counsel for the respondent this is a good ground to come to the conclusion that the petitioner is lying on this occasion also.

In my opinion the fact that the petitioner had earlier filed a petition and had not disclosed the full facts then cannot lead to the inevitable conclusion that on this occasion also he is making out a false case. Learned counsel for the petitioner has relied upon **Ishwar Chander v. Saroj Karwal** reported as **2010(1) RCR(Civil) 65**, **Iqbal singh and others v. Sunil Arora and another** reported as **2013(4) RCR(Civil) 44** and **M/s Satpal Vijay Kumar v. Sushil Kumar** reported as **2011(1) RCR(Rent) 161** to contend that if a landlord seeks eviction of a tenant to start business, his need is bona fide and should always be presumed as correct and genuine.

In view of the aforesaid judicial pronouncements the

petition is allowed. However, considering that the premises are required for commercial purposes, I deem it appropriate to grant four months' time to the respondent to vacate the same.

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

January 06, 2016
sunita

(AJAY TEWARI)
JUDGE