

CR-2450-2012 (O&M)
Date of decision : 13.05.2016

Sant Singh and Sons Respondent

Ms. G.S.Bhandari, Advocate and
Ms. Amanpreet Sabharwal, 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?

Today Shri G.S.Bhandari, Advocate has entered appearance on behalf of respondent and prays for permission to argue the matter. The matter has been heard again.

The claim of the petitioners was that they required the premises in dispute to start their own office. The claim of the respondent was that the petitioners were already running their office from their other building and, apart from the premises in question the petitioner No.2 is also the owner of several other shops and commercial premises. It is further stated that the petitioner No.1- Ravi Goenka and his family have been settled in Bombay and therefore they have no requirement of any premises in Amristar. The case of the petitioners in replication was that the business of the petitioners was being run both in Bombay and Amritsar and the premises where the petitioner No.1 was running his business (in partnership with his father-petitioner No.2) was a residential building which was situated in a dead-end lane about 500 yards away from the main road where the demised premises were situated. The Rent Controller allowed the petition but the Appellate Authority having accepted the appeal of the tenant, the petitioners are before this Court.

Learned senior counsel for the petitioners has argued that the Appellate Authority took an unduly, harsh and pedantic view in the case. As per him, the respondent was not able to bring home the allegations that the petitioners were either in occupation or had vacated any other suitable premises. It is stated that in its testimony the respondent itself accepted the fact that the business of the petitioners was being run in Bombay and Amritsar both and had also to further accept that it was not in a position to inform the Court as to how many other premises were owned and possessed by the petitioners. As per the learned senior counsel, the testimony of the respondent itself proved the case of the petitioners. He has further argued that had the respondent been able to objectively establish

that the petitioners had in their occupation or had vacated any comparable premises , it would have been a different thing. The fact of the matter is that the present shop is a double shop while all the other shops owned by the petitioners were single shops and consequently not suitable for the business of the petitioners. Learned senior counsel has taken me through the records and the entire testimony and I find that apart from having made a bald allegation that the petitioner No.1 was in occupation of many other shops the respondent has not been able to establish this fact. Shri Kuldeep Singh examined as RW-6 in his cross-examination had admitted as follows :-

“.....It is correct that Sh.Ravi Goenka and Parshotam Goenka are carrying their business of dyes and chemicals under the name and style of Rama Nand Kedar Nath International in the aforementioned residential building.....The applicants might be having turn over in crores yearly. It is correct that the applicants are having flourishing business both at Asr as well as in Bombay.....”

In the circumstances, the findings of the Rent Controller has to be upheld while that of the appellate authority has to be overturned. The argument that one shop was given to Airtel on rent would also not advance the case of the respondent because that was a single shop while as mentioned above the petitioners have claimed that they require a double shop.

The second argument that the petition was filed through an attorney also pales into insignificance in my opinion for two reasons. Firstly the attorney has stated that he has been the Manager of the petitioners since 2003 and consequently has complete knowledge of all the facts. Furthermore the petitioners also appeared and testified with regard to the need. I find that the respondent was not able to extract anything in its favour from the cross-

examination. Apart from the arguments learned counsel for the respondent has stated that the respondent would handover one of the shops to the petitioners and the petitioners should let him continue to be the tenant in the other shop. This proposal is not acceptable to the learned senior counsel appearing for the petitioners. It has been repeatedly held that neither the tenant nor the Rent Controller can dictate to the landlord as to how to use his property or to direct him to take half the property even if he has been able to establish bonafide necessity.

In this view of the matter, the petition is allowed. The respondent is directed to vacate the premises in dispute.

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

May 13, 2016

Pooja sharma-I

(AJAY TEWARI)
JUDGE