

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

**C.R No. 2486 of 2014 (O&M)
DECIDED ON : 06.05.2016**

Jaswinder Singh

..... Petitioner

Versus

Manjit Kaur

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. Surender Mahajan, 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 revision petition has been filed against the order of the Appellate Authority reversing the order passed by the Rent Controller and thereby ordering the eviction of petitioner, both on the grounds of non-payment of rent as well as personal necessity.

The respondent-landlord had filed a petition for eviction of the petitioner-tenant on the ground that she needed the shop in dispute to settle her son. The case of petitioner-tenant was that she had another shop in her possession.

Learned counsel for the petitioner has argued that the Appellate Authority erred in discarding the statement of Bhupinder Singh and not understanding it in its true perspective and the continuous fraudulent acts and conduct of the respondent in trying to evict him by fair or foul means. As per him, the premises was originally owned by the father-in-law of respondent and at one stage, he filed a petition alleging that his son was a tenant and had unlawfully sublet the premises to the petitioner and both the Rent Controller and the Appellate Authority found that it was a completely false case. As per him, this kind of chicanery is present in this case also because her brother-in-law Baldev Singh, when appeared as a witness, did not specifically deny that there was one shop which was lying vacant and only stated that he did not know if there was any other shop lying vacant. Moreover, RW-3 Bhupinder Singh had specifically stated that there were two more vacant shops.

Learned counsel for the respondent, on the other hand, has argued that approach of the Rent Controller was wrong. As per him, Rent Controller erred in holding that it was incumbent upon the landlord to prove bona fide necessity beyond any doubt, whereas the Appellate Authority correctly understood

the law that in a petition for eviction on the ground of personal requirement, the Court would presume that the personal requirement exists and it would be for the tenant to dispel that presumption. As per him, the self serving statement of Bhupinder Singh or the lack of knowledge of Baldev Singh would not prove that the respondent had another shop lying vacant since she had categorically denied this fact. Had the tenant proved this fact by placing on record some objective material, then it could have been held so, but on the basis of these two statements it cannot be held that there was another property/shop available to the landlord.

I find more weight in the argument of learned counsel for the respondent. Even if on an earlier occasion, the father-in-law of respondent tried some dubious means to eject the petitioner, yet that would not show that the present case was also false. The fact that one witness of the petitioner stated that respondent had more shops would not by itself prove this fact.

As regards the issue of rent, the Rent Controller had come to the conclusion that the ownership of respondent was not proved because she was not able to prove the Will in her favour. In this connection, learned Appellate Authority rightly held that it was not for the Rent Controller to decide this issue of title. More so, when the petitioner had admitted in his cross-examination as follows :-

" RW-2 Jaswinder Singh has admitted in his cross-examination that 'I have taken the shop in dispute on

rent on 10.3.1985 from Tara Singh and Paramjit Singh and rent note of the same was executed by mne in favour of said persons. As per Will dated 21.3.1994, executed by Tara Singh, Manjit Kaur became owner of the demised shop."

In view of this categoric admission, I uphold the finding of the Appellate Authority on the issue of rent as well. Consequently, the petition is dismissed.

MAY 06, 2016
shalini

(AJAY TEWARI)
JUDGE