

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

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Civil Revision No.3772 of 2016 (O&M)

Date of Decision: May 28, 2016

Baldev Singh

...Petitioner

Versus

Satish Kumar Goyal

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Avinder Kumar Kalsy, Advocate
and Mr. Abhimanyu Kalsy, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the judgment dated 12.08.2015 passed by the Rent Controller, Payal, whereby the eviction petition preferred by the respondent-landlord stands allowed on the ground of *bona fide* personal necessity, appeal against which preferred by the petitioner-tenant before the Appellate Authority, Ludhiana, has been dismissed on 15.02.2016.

2. It is the contention of learned counsel for the petitioner that the Courts below have not taken into consideration the fact that the respondent-landlord had retired in the year 2005 and since then, he had not made any effort for eviction of the shop in question. He asserts that as a matter of fact, an adjoining shop has been sold in the year 2008 and had the respondent intended to start his own business of computer, as has been asserted, the premises was available to him instead he preferred to sell off the said shop and, therefore, the findings of the Courts below that the respondent-landlord requires it for the purposes of starting his own personal business of computer and, therefore, there is a *bona fide* personal necessity of the respondent-landlord, cannot sustain. That apart, he states that the

residence of the respondent-landlord is about 50 kilometres from the demised premises. He asserts that the admitted fact is that the respondent-landlord is resident of Sangrur, whereas the demised premises is in Malout. He, thus, contends that the findings as recorded by the Courts below on the requirement of the premises for personal necessity of the respondent-landlord, cannot sustain and deserve to be set aside.

3. I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the impugned judgments.

4. The first assertion of the counsel for the petitioner that the respondent-landlord has retired in the year 2005 and, therefore, would not require the premises now for starting his business as the adjoining premises was always available to him which has been sold in the year 2008, cannot be accepted for the simple reason that it is the proved case of the respondent-landlord that both these shops were owned by his father Bhagwan Dass. Since he was not the owner of any of the shops including the demised premises, therefore, it cannot be said that he had any right to start a business in the adjoining shop which was owned by his father. The sale of the adjoining shop, therefore, cannot be pleaded and asserted to be a ground for there being no personal necessity of the respondent-landlord as admittedly the adjoining shop was sold by his father when he was alive. The respondent-landlord became the owner of the demised premises on the basis of a Will which was executed by his father in his favour. It is only after the death of his father that the Will came into operation and steps were taken by the respondent-landlord to get the title changed in his favour,

which indeed he has got so done and it is thereafter the present petition has been preferred. He could, therefore, assert his *bona fide* personal necessity only after he became the owner-landlord of the demised premises. It cannot, therefore, be said that he could have asserted himself that he required the demised premises for his personal use prior thereto.

5. As regards the contention of learned counsel for the petitioner that the respondent-landlord is having a house in Sangrur which is at a distance of 50 kilometres from Malout, where the demised premises is situated and, therefore, it is not an intention of the respondent-landlord to start his own business, suffice it to say that the said plea cannot be accepted as in the present scenario, where transport and facilities to commute are all available in the form of personal and/or public vehicles, the said plea can hardly be accepted. In any case, it is for the respondent-landlord to see as to how he would commute, if he so desires or he may even take some premises on rent or acquire one. The tenant cannot dictate such terms or cannot press for such pleas which do not relate to or have no nexus or connection with the *lis*.

6. None of the pleas, as has been taken by the petitioner and argued, can justify the assertion of the counsel that the Courts have come to a wrong conclusion with regard to the personal *bona fide* necessity of the respondent-landlord for starting his own computer business in the demised premises.

7. In view of the above, the findings as recorded by the Courts below, cannot be faulted with as the same are based upon proper appreciation of the pleadings and the evidence brought on record.

8. There is no perversity or illegality in the findings as recorded by the Courts below, therefore, the same do not require any interference by this Court.

9. Finding no merit in the present revision petition, the same stands dismissed.

10. In the light of the dismissal of the petition, the application for stay i.e. CM No.11540-CII of 2016, stands disposed of as infructuous.

May 28, 2016

Puneet

**(AUGUSTINE GEORGE MASIH)
JUDGE**