

In the High Court of Punjab and Haryana at Chandigarh

CR No.5647 of 2015 (O&M)

Date of decision: February 16, 2016

Kalu Ram

..... Petitioner

Versus

Hari Ram Soni

..... Respondent

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Vaibhav Jain, Advocate for the petitioner.
Mr. Sanjiv Gupta, Advocate for the respondent.

1. *Whether Reporters of Local Newspapers 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 petition has been filed against the order of the Rent Controller directing the petitioner to construct a toilet on the ground floor. The petitioner had filed eviction petition against the respondent and in reply, the respondent had taken the plea that to squeeze him to vacate the premises the petitioner was threatening to demolish the toilet. Thereafter, the respondent moved an application to the Rent Controller praying that the petitioner had actually illegally demolished the toilet and sought a direction to him that he reconstruct the same.

The case of the petitioner on the other hand was that in the

premises in dispute there was no toilet at all and, therefore, there was no question that he either illegally demolished the same or was bound to provide another one. In this connection, learned counsel has argued that the witness of the respondent himself admitted that the wall of the existing latrine bathroom was neither demolished by the petitioner through anyone nor himself. Learned counsel has urged that in this view of the admission by the witness of the respondent, there could be no reason for the Court to direct him to construct the toilet.

Learned counsel for the respondent on the other hand has argued that if the petitioner relied upon the statement then it has to be admitted that toilet was existing and the same has been now demolished, therefore, direction of the Rent Controller to the petitioner to construct the toilet cannot be deemed to be illegal in any manner.

A perusal of the impugned order reveals that the Rent Controller has not given any finding that the petitioner has demolished the toilet and has rather gone all the presumptions that it is difficult to determine whether there was a toilet at the site or whether it was demolished by the petitioner. However, the Rent Controller has determined the matter by the fact that toilet is one of the basic amenities and in any case that basic amenity had to be provided.

In my considered opinion, the argument of the learned counsel for the respondent carries weight. It has also to be noticed that existence of the toilet was pleaded in the reply filed by the respondent and no replication was filed thereto. The testimony which was relied upon by learned counsel for the petitioner definitely indicates that a

toilet was there and same had been demolished.

In the circumstances, even if it is not proved that the petitioner had demolished the same, the direction of the Rent Controller cannot be deemed to be illegal in any manner. The petition is dismissed.

(AJAY TEWARI)
JUDGE

February 16, 2016
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