

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

CR No.997 of 2007 (O&M)
Date of decision: 26.05.2016

Devki Nandan

.... Petitioner

versus

Revti Nandan & ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Mohit Garg, Advocate
for the petitioner.

Mr. Harsh Aggarwal, Advocate
for the respondents.

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 dated 01.11.2006 passed by Appellate Authority reversing that of the Rent Controller and thereby dismissing the eviction petition filed by the petitioner.

Brief facts of the case are that the petitioner filed the eviction petition against the tenant of the demised shop on the ground that after taking premature retirement the petitioner wanted to start a business of computer printing and designing.

In the written statement filed by the respondent, it was pleaded that originally the petitioner and his son had started the business of computer designing in their house but subsequently, they had shifted it to the rented premises where the son of the petitioner was earlier running a provision store.

However, in the replication, the plea taken by the petitioner was that the petitioner was forced to start the business of computer designing in his house and the computer designing business in the rented shop was exclusively of his son.

The Rent Controller allowed the petition filed by the petitioner and as mentioned above, the appeal filed against that order was dismissed by the Appellate Authority. Feeling aggrieved against that order, the petitioner has filed petition before this Court.

Learned counsel for the petitioner has argued that this is a case where the petitioner took premature retirement only to start his own business in his own shop but has been unsuccessful because of the illegal order of the Appellate Authority.

Learned counsel for the respondent, on the other hand, has argued that in fact the petitioner has died during the pendency of the revision petition, thus, the petition has to be dismissed. As per him, both in the petition and the replication, the petition had reiterated that he wanted the shop for his own use and his son was running a computer designing business separately in a rented premises.

Learned counsel for the petitioner has further argued in the light of the judgment in ***Shakuntala Bai & others vs. Narayan Dass & others, 2004(1) RCR (Rent) 580*** ultimately followed by the judgment passed by this Court in ***Bharat Petroleum Corporation Ltd. vs. Smt. Bhagwanti Devi (through LRs) and others, 2015 (4) RCR (Civil) 459***.

As per him, the death of the landlord has been held not to 'totally eclipse' the personal requirement and therefore, in the present case also, the subsequent event, which has happened so many years

after the filing of eviction petition cannot be taken into account.

In my opinion, this argument though not entirely meritless would not help the petitioner in the present case. In Shakuntala Bai's case(supra), after the death of the original landlord his legal representatives had amended the petition to take the specific plea that even after the death of original landlord they required the premises in dispute. Similarly, in Bharat Petroleum's case(supra) this Court held that even after the death of original landlord if there is evidence that his legal representatives also require the premises and are otherwise covered under the parameters of Section 13(3a), the petition can proceed further. In the case in hand, there is no evidence that any legal representative of the deceased petitioner/landlord required the premises for his personal use.

Consequently, no fault can be found in the judgment by the Appellate Court. The present petition stands dismissed.

May 26, 2016
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(AJAY TEWARI)
JUDGE