

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

**CR-7246-2008 (O&M)**

**Date of decision : 11.02.2016**

Smt. Taramani

..... Petitioner

Vs

Smt. Salochana Jain & Ors.

..... Respondents

**Coram : Hon'ble Mr. Justice Ajay Tewari**

Present: Mr.Kunal Mulwani, Advocate,  
for the petitioner.

Mr. Sanjeev Thakur, Advocate  
for the respondents.

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**Ajay Tewari, J. (oral)**

This revision petition has been filed against the order dated 15.10.2008 passed by the Appellate Authority, Hisar reversing the judgment dated 24.12.2007 of learned Rent Controller, Hisar and thereby dismissing the petition of the landlady for eviction of the respondents from the shop in question on the ground of the bona fide necessity of her husband.

The Appellate Authority held the petitioner dis-entitled primarily on the ground that during pendency of the petition, another shop had become vacant and her husband could have started his business in that shop. Learned counsel for the petitioner has assailed this finding and prayed that the order

of the Rent Controller be affirmed.

Learned counsel for the respondents has submitted that that one shop was got vacated on the ground of non-payment of rent and in that shop husband of the petitioner could have started his own business and this fact is admitted by the petitioner. In these circumstances, the conclusion that the Appellate Authority arrived that the husband of the petitioner could well have started the business in that shop, can be accepted. I do not find favour with this argument. It has been repeatedly held that it is not for the tenant to dictate where the landlord should do his business.

Learned counsel for the respondents has then argued that the husband of the petitioner had eight other shops in Suraj Market, Katla Ramlila, Hisar but learned counsel for the petitioner points out that none of the shops is in possession of the husband of the petitioner and even his admission in the cross-examination that he is building godown on the first floor, has been explained by him by stating that the premises on the first floor is not suitable for the business he intends to start. I do not find favour with this argument of learned counsel for the respondents also.

Next argument of the learned counsel for the respondents that the husband of the petitioner is now more than 80 years of age and, therefore, it cannot be accepted that he is able to run the business. In my opinion, this argument can be

turned on its head. The petition was filed in the year 2005 and if the shop had been vacated, the husband of the petitioner could have run his business for the last 11 years.

Learned counsel for the respondents has further argued that apart from his eight shops in Katla Ramlila, Hisar, the husband of the petitioner has other shops in the same building. Learned counsel for the petitioner has opposed the same by saying that it has been explained during the evidence that those shops are either under tenancy or are not suitable for running business he intends to start and as such none of the shops is available for the petitioner or her husband.

No other point has been raised.

In these circumstances, I find that the revision petition has to be allowed. Ordered accordingly. The order of the Appellate Authority is set aside and that of the Rent Controller is restored.

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

**(AJAY TEWARI)**  
**JUDGE**

**11.02.2016**

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