

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

**C.M. NO.2582 CII OF 2011 &
CIVIL REVISION NO.654 OF 2011
DATE OF DECISION: JANUARY 07, 2016**

Ram Pal Saini

.....Petitioner

VERSUS

Surinder Singh

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Ms. Satpreet Grewal Kapila, Advocate,
for the petitioner.

Mr. K. S. Cheema, Advocate,
for the respondent.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.2582 CII of 2011

C.M. is allowed.

Exemption is granted from filing the certified copy of
judgement and decree of the Rent Controller, Hoshiarpur.

Civil Revision No.654 of 2011

Challenge in this revision petition is to the order dated
01.10.2009 passed by the Rent Controller, Hoshiarpur, whereby the petition
for ejectment under Section 13 of the East Punjab Urban Rent Restrict Act,
1949 stands dismissed, appeal against which has also been dismissed by the

Appellate Authority, Hoshiarpur on 21.10.2010.

It is the contention of learned counsel for the appellant that eviction of the respondent-tenant was sought on the ground of personal necessity to run a business of readymade garments in the demised premises (shop) as he was on the verge of his retirement from his private job. She contends that the bonafide necessity of the landlord can be gazed from the fact that after his retirement, he wanted to keep himself busy and also to earn his livelihood out of the proceeds by running the said business and, therefore, bonafide need of the petitioner is apparent. She further contends that it has been truly and correctly disclosed that the petitioner has two other shops in the same locality but the same are not suitable for the business of readymade garments which the petitioner intends to start in the demised premises. Her contention is that assertion of the landlord about the bonafide requirement and the business sought to be run should have been accepted by the Rent Controller and the Appellate Authority. In support of his contentions, she places reliance upon the judgements of this Court reported as Pardeep Kumar Vs. Amar Nath, 2007 (1) R.C.R. (Rent) 349, Madho Ram Garg Vs. Baldev Singh Bath and another, 2008 (3) R.C.R. (Civil) 286 and M/s Satpal Vijay Kumar Vs. Sushil Kumar, 2011 (2) R.C.R. (Civil) 82. On the basis of the said judgements, she contends that the impugned orders cannot sustain and deserve to be set-aside. It has further been asserted by the counsel that merely because there are two other shops adjacent to the demised shop, which is being sought to be vacated, out of which one is on rent with another tenant and the second one is being used by his son, cannot be a ground for coming to a conclusion that there is no bonafide necessity of the petitioner. She states that the back portion of the demised shop can be used for expansion and for storing of the goods and, therefore, this is the

most suitable shop for the purpose of business, which is being sought to be run by the petitioner-landlord. Prayer has, thus, been made for allowing the present revision petition by setting-aside the impugned orders and allowing the eviction petition.

On the other hand, learned counsel for the respondent submits that the bonafide requirement of the landlord if not to be established but atleast the same should be apparent from the evidence which is brought on record. In the present case, what has been brought on record is mere urge or desire to get the shop vacated and not a necessity as the shop which is lying vacant adjacent to the one which is sought to be vacated is being used as a car garage by son of the petitioner and that too when he comes to reside with the petitioner during his vacations. On the other occasions, the said shop is lying vacant. That apart, he asserts that the petitioner has admitted that he had been running the same business on an earlier occasion also, which is being sought to be run from the said shop but now his move is to get the shop vacated. Further, the shop which is on rent has been rented out on 6/7 different occasions to different tenants in the last 6/7 years, which also shows that there is no bonafide necessity on the part of the landlord, which would justify his claim as has been made in the eviction petition. The judgements on which reliance has been placed by counsel for the petitioner would not be applicable to the case in hand. Prayer has, thus, been made for dismissal of the present petition.

I have considered the submissions made by counsel for the parties and with their able assistance have gone through the impugned orders but do not find any illegality in the same.

The principle, as has been laid down by this Court and by the

Hon'ble Apex Court, that bonafide need of the landlord is a good ground for eviction of the demised premises cannot be disputed, provided there is foundation made out for the same. Present is a case where there is no evidence worth mentioning, which would point out the bonafide necessity of the petitioner-landlord. It is not in dispute that the petitioner is owner of three adjacent shops, out of which one is lying vacant, which is being used by his son for the purpose of parking his car as a garage and that too as and when he comes on vacation to reside with the petitioner. This in itself shows that there is an adjacent shop available within the same locality with the petitioner-landlord, where the petitioner can run his intended business, which he had initially done, as has come on record but had backed out from it. Nothing has come on record, which would prove or show that the demised shop is the only premises which would be suitable for running the business of readymade clothes, especially when the adjacent shop is lying vacant. No special features have been pointed out as to why the shop which is lying vacant is not suitable for the business he intends to start. Even evidence has also come on record that space is vacant and available behind all the shops and, therefore, there is no special feature, as is sought to be asserted, in this shop, which could distinguish this shop from the others as more suitable for the business intended to be started by the petitioner-landlord. The evidence which has been brought on record further indicates that the intention of the landlord is to get the shop vacated and then rent it out again as it has come on record that on earlier 6/7 occasions the shops being got vacated by him and then rented out to different tenants by the landlord in the last 6/7 years.

Findings, as recorded by the Courts below, do not call for any

interference by this Court as there is no illegality in the said orders. The findings are based on pleadings and the evidence brought on record.

The judgements in Pardeep Kumar's case (supra), Madho Ram Garg's case (supra) and M/s Satpal Vijay Kumar's case (supra), on which reliance has been placed by counsel for the petitioner would not be of much help to the petitioner as in all those cases the bonafide necessity of the landlord has been established and proved on the basis of the pleadings and the evidence placed on record, which is absented in the present case. Therefore, no reliance can be placed on the said judgements.

In view of the above findings, there is no merit in the present revision and the same stands dismissed.

**January 07, 2016
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**