

CR No. 6473 of 2016 (O&M)

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

CR No. 6473 of 2016 (O&M)

Date of Decision: October 19, 2016

Harjit Singh

...Petitioner

Versus

Kuldeep Singh

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vishavjeet Singh, Advocate
for the petitioner.

Mr. Gursimran Singh, Advocate for
Mr. Inderpal Singh Parmar, Advocate
for the caveator-respondent.

AUGUSTINE GEORGE MASIH, J. (Oral):

Petitioner has approached this Court impugning the order passed by the Rent Controller dated 07.04.2015, whereby, on the ground of personal necessity of the respondent-landlord, petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, for ejectment of the petitioner has been allowed, appeal against which preferred by the petitioner has been dismissed by the Appellate Authority, Ludhiana, on 12.07.2016.

2. It is the contention of the counsel for the petitioner that the whole shop was in possession of the petitioner and the possession was taken by the respondent-landlord on the basis of which FIR No.234 dated 23.10.2012 was registered against the respondent. During the investigation

of the said FIR, a compromise (Ex.P-2) was entered into between the parties and as per the said compromise, a portion of the shop measuring 4'X9' was handed over to the petitioner whereas rent was fixed at the rate of Rs.1,000/- per month. He contends that the Courts below have not properly appreciated the factual position as is apparent from the FIR which was got registered by the petitioner as he was forcibly evicted from the tenanted premises. Thereafter, the eviction petition has been filed which shows that the intention of the respondent was only to take the possession of the premises either by hook or by crook in which he has ultimately succeeded by getting the eviction order in his favour from the Courts below. His further contention is that apart from the shop in question, the respondent has admitted that he is running another shop and workshop in his residential area which premises, is being utilized for the business purposes and therefore, he does not require the premises in question for his personal *bona fide* necessity as he is running a business in a part of his house and therefore, the intention primarily is only for getting the shop evicted from the petitioner and not expanding the business as has been projected. He, thus, contends that the orders passed by the authorities below cannot sustain and deserve to be set aside.

3. On the other hand, counsel for the respondent-caveator asserts that the Courts below have properly appreciated the pleadings which are based upon the documentary evidence brought on record, which shows that the petitioner is in possession of a portion of the shop i.e. 4'X9' and not the

complete shop. The factum with regard to the compromise is also apparent which is prior to the filing of the eviction petition and the signatures on the compromise has also been admitted by the petitioner. In the light of the admitted facts, it cannot be said that the petitioner was in possession of the complete shop. As a matter of fact, he was only in possession of a portion of the shop that too measuring 4'X9'. His assertion is that as regards the business in the residential premises is concerned, there is a workshop running in the residential area where there is a shop as well but there can be no denial of a fact that a commercial area is always better than a residential area the business is being sought to be expanded from the shop in the market which has been rightly projected and proved by the respondent-landlord before the Courts below and therefore, the findings as recorded by the authorities below cannot be said to be without any basis or perverse which would call for any interference by this Court. Prayer has, thus, been made for dismissal of the revision petition.

4. I have considered the submissions made by the counsel for the petitioner and with his able assistance, have gone through the impugned orders.

5. As is apparent from the admission on the part of the petitioner that a compromise which has been entered into between the parties (Ex.P-2), clearly depicts that a portion measuring 4'X9' of the shop is in possession of the petitioner. It is also apparent from the report of the Deputy Superintendent of Police (Ex. P-3) that area measuring 4'X9' was a portion

which was in actual physical possession of the petitioner and not the full shop. Thus, the findings recorded by the authorities below being based on admitted documents cannot be faulted with. The petitioner, thus, was in possession of 4'X9' area of the shop in dispute.

6. The findings recorded by the authorities below qua the factum that the respondent was running his business in the residential area is correct and it is equally correct that the business being run in a commercial area is much more lucrative and beneficial than any residential area that too when the primary purpose for which the residential area was being used as the workshop for making furnitures which business is admittedly being carried out by the respondent-landlord. If a landlord intends to expand his business and wants to display his furniture articles in the shop in question by including the portion which is in possession of the petitioner would clearly indicate the *bona fide* requirement of the respondent-landlord and under those circumstances, the findings as recorded by the authorities below cannot be faulted with.

7. The findings as recorded do not call for any interference by this Court in the present revision petition. It may be added here that in the execution proceedings which had been initiated by the respondent-landlord, the possession has already been taken of the demised premises by him.

8. In view of the above, finding no merit in the present revision petition, the same stands dismissed.

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In the light of the order passed in main revision petition, no order is required to be passed in the present application for stay as the same has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

October 19, 2016
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No