

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R No. 669 of 2016 (O&M)
Date of decision : February 01, 2016

Ashok Kumar

..... Petitioner

v.

Bimla Devi

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. R.N Lohan, Advocate
for the petitioner.

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 17.12.2005 passed by the Appellate Authority allowing the appeal of the landlord and thereby passing an order of eviction against the petitioner.

The landlord-respondent had filed the eviction petition taking two grounds; first being ceasure to occupy and the second being change of user. The Rent Controller came to the conclusion that ceasure to occupy for a period of four months was not established and dismissed the petition without considering the second ground of change of user. In appeal, the appellate Authority noticed that along with the eviction petition, the landlord had filed an application for appointment of a Local Commissioner to visit the shop in dispute and as per the report of the Local Commissioner, he visited the shop on 19.7.2011, 25.7.2011 and 26.7.2011. On his first visit, he found the shop closed and it was mentioned on the shutter that this

shop had been shifted to 10 shops ahead in the market. He had also found that the shop in question seemed to be closed since a long time as dust and spider webs were present and locks were found full of dust. However, when he went on 25.7.2011 and 26.7.2011, the shop was found open but no business was being run there. The UDC (PW2) of the Electricity Department deposed that in June 2010, the shop in question was found locked, though in February 2011 it was open but only 64 units had been consumed. In April 2011, the shop was found again locked but in June 2011, it was open and only 21 units had been consumed. After June, 2011 till August 2011, only 13 units had been consumed. PW4-Ram Singh Meter Reader had also deposed that as and when he visited the shop in question, he found the same locked and he used to get recorded the reading by calling the owner from another shop. PW4 was the neighbouring shopkeeper who also deposed that the petitioner had shifted his shop and the present shop was lying closed. In his own testimony, the petitioner asserted that he was using the shop for sale and purchase but admitted that there was no sign board. His second witness RW2 had also stated that there was no sign board on the shop in question. Keeping all these facts in mind, the Appellate Authority came to the conclusion that though for four months ceasure to occupy had not been established yet the petitioner had changed the user of the shop in question. I see no ground to interfere in the decision of the Appellate Authority. Consequentially, this petition is dismissed being devoid of any merit.

(AJAY TEWARI)
JUDGE

February 01, 2016
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