

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 956 of 2009(O&M)
Date of decision : 01.06.2016

Kulbhushan Jain

.....Petitioner

versus

Inderjeet

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Dr.Surya Parkash, Advocate
for the petitioner.

Mr.Shiv Kumar, Advocate
for the respondent.

1. Whether Reporters of local papers 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 concurrent orders of the Courts below ordering the eviction of the petitioner from the shop in dispute on the ground of the personal necessity of the landlord.

The case of the respondent was that he required the shop in dispute for the use of his son Vishal Gupta who was an unemployed graduate. In the reply the petitioner pointed out that apart from the shop in question the respondent owned five other shops. During evidence it transpired that with regard to two shops eviction proceedings had been filed and were pending. One shop had been sold by the respondent to the tenant itself because despite having obtained an eviction order from two Courts the

revision of the tenant was pending in this Court. One shop was in the possession of the landlord himself and one in possession of another son. The sixth shop was in the possession of the petitioner.

Learned counsel for the petitioner has argued that by not disclosing about his ownership of the various properties the respondent has incurred the disqualification of material non-disclosure.

In my opinion this argument may not be entirely correct. What the Act makes mandatory to disclose is the fact whether the landlord is in occupation or has vacated any premises and not whether a landlord owns or does not own any premises. In fact the Rent Act does not purport to deal with ownership at all and only legislates on landlord-tenant relationships. It is trite to say that a landlord may not even be an owner and it, therefore, has to be held that ownership of premises would not be a bar to eviction of a tenant and only occupation or vacation without cause can defeat a landlord's right to obtain eviction on the ground of personal necessity. The issue, therefore, now remains as to which premises the respondent had in his occupation on the date of filing the petition. In that regard both the Courts below have noticed that there were two premises, one in the occupation of the respondent himself where he was running the shop and one which was in possession of his son Deepak, which had been got vacated from Sewa Ram which the petitioner had admitted was in the possession of Deepak. Learned counsel has argued that there was another shop under the tenancy of Gopal Batla which was vacated on the date when he had appeared to give evidence i.e. in the year 2008. However, the averment with regard thereto was very cryptic and only in the following terms:- 'one shop of the respondent is lying vacant'. In this regard learned counsel for the petitioner

has pointed out that even though the petitioner had not made any reference to any particular shop in his examination-in-chief(which my have rendered it possible for the landlord to have disputed), yet the respondent had placed on record Ex.PB which was a certified copy of an order passed in an on going rent petition between him and tenant Gopal Batla. Learned counsel has argued that the bare statement of the petitioner quoted above would not give rise to the conclusion that that shop was vacant at that time. Learned counsel has stated that as a matter of fact the admitted case is that the respondent has four sons and the premises of Gopal Batla was got vacated in the year 2010 and has actually been occupied by another son of the respondent. These exact contentions have been considered and dealt with by the Courts below and for the reasons recorded by them and for the reasons mentioned above I find no ground to take a different view.

Petition is dismissed.

Since the main case has been decided, the Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

June 01, 2016
sunita