

C.R No. 870 of 2016 (O&M)

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

C.R No. 870 of 2016 (O&M)
Date of decision : June 02, 2016

Manju Bala

..... Petitioner

v.

Chanchala Kumari and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Vishal Aggarwal, Advocate
for the respondents.

- 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 concurrent orders of
eviction passed by the Courts below against the petitioner.

Brief facts are that the respondents had filed the petition

seeking eviction of the petitioner from the shop in dispute on the ground

that it was required for applicant-respondent No.4-Parveen who was educated and unemployed and wanted to start business therein. In the petition, it was averred that the respondents owned five shops, out of which four were under tenancy and the 5th shop was being used to store Toori (fodder) for the cattle which they had kept. The case of the respondents primarily was that the plea of the petitioner that the 5th shop was being used as a Toori room was wrong. On the evidence led by the parties, both the Courts came to the conclusion that the case set up by the respondents was proved and consequently allowed the eviction petition.

Counsel for the petitioner has argued that actually apart from the Toori room, the respondents were in possession of one more shop because, as per him, Bodh Raj-AW1 had mentioned that apart from the petitioner, there were two other tenants. However, counsel for the respondents has countered this by arguing that in his testimony, the petitioner himself had to admit that apart from him, there were three other tenants.

In the circumstances, I see no error in the approach of the Courts below in believing the statement of the petitioner vis a vis that of Bodh Raj.

Counsel for the petitioner has further argued that applicant-

Pardeep in his testimony had to accept that he was doing business from

the shop described as Toori room. Counsel for the respondents has countered this by arguing that in the very next statement, he has stated that he was using the same as Toori room.

Counsel for the respondents has further argued that once the petitioner never disputed the fact that the respondents were keeping cattle in the house either in his pleading or in his testimony, it was not unreasonable for the Courts below to believe the statement of the respondents that one of the rooms was being used as a Toori room, since apart from the respondents themselves, other witnesses also stated so.

It cannot be lost sight of that the shop in dispute is situated in Sujampur, which is a small semi rural town near Pathankot where it would be quite normal for people to keep milch animals at home. Counsel for the petitioner has not been able to persuade me that the Courts below erred in holding that preponderance of probabilities lay in favour of the respondents. Consequently, finding no merit in this petition, the same is dismissed.

June 02, 2016
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(AJAY TEWARI)
JUDGE