

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

239

C.R. No. 1887 of 2016
Date of decision: 25.05.2017

Satnam Dass

....Petitioner(s)

Versus

Jagdev Singh and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Mohd. Yousaf, Advocate,
for the petitioner.

Mr. Sunny K. Singla, Advocate,
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The present revision petition is directed against the order dated 24.02.2016 (Annexure P-6) passed by the Rent Controller, Malerkotla, whereby, the application for additional evidence to examine Gurpreet Singh, son of the landlord has been accepted. The tenant is aggrieved on the ground that the application was filed after the evidence had been completed of both the parties and at the fag end. The said objection was not accepted by the Rent Controller, who took into account various judgments on the point i.e. *Rajiv Gupta vs. Jiwan Ram, 2015(1) RCR (Rent) 98* that if the son was not examined, it would be a serious flaw in the case of the landlord and, therefore, an opportunity should be granted to the landlord.

No doubt, the landlord has been negligent as such in not examining the son though the bona fide requirement has been set up and eviction is sought on the ground that the son Gurpreet Singh is unmarried and has no independent business of his own. The shop had been taken on rent through the father who has filed the eviction petition alongwith his son.

The mandatory ingredients as such regarding not possessing any other shop nor having vacated one by the landlord was duly incorporated in the eviction petition. The same was opposed in detail by the petitioner-respondent on the ground that Gurpreet Singh had large business and was not unemployed as held out. The onus for the requirement of the shop was accordingly placed upon the respondent-landlord who examined the witnesses including himself but had chosen not to examine Gurpreet Singh, for whom the need had been set up.

The Apex Court in *Ajit Singh and another vs. Jit Ram and another, 2008 (9) SCC 699* has specifically held that necessary averments have to be made and eviction can fail if the necessary averments had not been made.

The Rent Controller has rightly observed that it would as such lead to a serious flaw as his case would be foreclosed in the absence of the examination of the son who is alleged to be owning other properties and, therefore, in such circumstances, the application has been allowed. The delay, if any, has only led to the disposal of the eviction petition, which is to the detriment of the respondent-landlord. The tenant can be duly compensated in such as circumstances as he has to defend the litigation over a long period of time for which this Court assesses costs of ₹15,000/-.

Accordingly, the present revision petition is dismissed, subject to the fact that payment of costs by the landlord would be a necessary consequence before the witness is examined.

25.05.2017
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(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No