

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 440 of 2017 (O & M)

Date of decision: 06.04.2017

Uma Rani (deceased) through L.Rs.

....Petitioner(s)

Versus

Pawan Kumar

...Respondent(s)

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

Present: Mr. APS Shergill, Advocate,
for the applicant-petitioner.

Mr. Arshdeep Bhullar, Advocate,
for the respondent.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 7767-CII of 2017

The present application has been filed for placing on record affidavit in terms of order dated 23.01.2017. The said order reads thus:-

“The eviction has been ordered on the ground of bonafide requirement. On the record it has come that the landlord requires the vacant possession of three shops No.38 to 40 in village Badheri, U.T. Chandigarh.

*The **Civil Revision No.7847 of 2015** qua shop No.39 pertaining to Sarla Rani was dismissed as withdrawn on 26.11.2015, in view of the some compromise effected. It is not disputed that for the shop No.38 also the eviction proceedings are pending.*

Counsel for the petitioner submits that business of sale of school dresses is being run in the premises and if sufficient time is given to vacate the premises till 31.01.2018, the necessary affidavit will be filed on the

next date of hearing, subject to clearing of arrears of rent and undertaking to deposit the rent.

To come up on 06.02.2017, for the said purpose.”

Thereafter on 13.02.2017, the following order was passed:-

CM-2845-CII-2017

Application has been filed for placing on record affidavit of the petitioner-tenant whereby he has consented that he would vacate the premises by 31.01.2018. It has further been mentioned in his affidavit that he would be willing to pay double the amount of mesne profits @ Rs.9000/- per month, if he is allowed to stay for the months of February, March and April, 2018, since he has to re-locate and find alternative space.

In view of the averments made in the application, duly supported by an affidavit, same is allowed. Affidavit of the petitioner-tenant is taken on record.

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Notice of motion to the respondents, for the said purpose only, for 01.03.2017.

Dasti.

In the meantime, dispossession shall remain stayed, till the next date of hearing.”

On 01.03.2017, counsel for the respondent had put in appearance in pursuance of the notice of motion issued for the purpose of seeking his consent and counsel for the petitioner had prayed that the premises may be vacated by April, 2018. The said prayer was not accepted by counsel for the respondent and the following order was passed on 01.03.2017:-

“Mr. Arshdeep Bhullar, Advocate has filed memo of appearance on behalf of respondent. He submits that

the adjoining shop is also to be vacated by another tenant by 31.1.2018 and therefore consent for continuing till April, 2018 is not possible since the property is to be utilized in joint manner. He further submits that petitioner-tenant has five legal heirs and undertaking is only given by one of the legal representative to vacate the shop by 31.1.2018.

Mr. Shergill, counsel for the petitioners submits that affidavits of remaining four tenants shall also be filed in the same terms to vacate the premises in question.

Let the needful be done on or before the next date.

Adjourned to 6.4.2017.

Interim order to continue.”

Now, in terms of the same, a joint affidavit of all the legal representatives of the petitioner-Uma Rani (since deceased) has been filed and the same is taken on record.

Application is allowed accordingly allowed.

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In view of the above, the present revision petition is disposed of in view of the terms of the affidavit to the extent that the petitioners would vacate and hand over the possession of the premises in question to the landlord by 31.01.2018 and would clear all the arrears of rent/mesne profits by 30.04.2017 and keep on depositing the mesne profits by the 7th of each month. It is made clear that in case there is violation of the terms and conditions, the landlord would have a right to seek eviction through the Rent Controller, Chandigarh who will necessarily provide the police help, in case, so required. It is open to the landlord to supply his bank account

number for deposit of the rent/mesne profits.

06.04.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No