

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CR No.5521 of 2017(O&M)

Date of Decision:-30.08.2017

Ramesh Kumar Naharia.

.....Petitioner.

Versus

Mahabir Parshad.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Abhimanyu Singh, Advocate for the Petitioner.

JASWANT SINGH, J (ORAL)

Petitioner (tenant) is in revision aggrieved against the concurrent findings returned by the Authorities below, whereby his eviction has been ordered on the ground of personal necessity of the respondent (landlord) for use and occupation of his grandson (Manish) in order to start a cloth business as well as on the ground that tenant has ceased to occupy the demised premises, vide judgment dated 09.01.2017 and findings thereof were affirmed by learned Appellate Authority, Bhiwani vide judgment dated 13.07.2017.

Learned Counsel for the petitioner has argued that the observation and findings returned by the Authorities below are based upon mis-appreciation of the evidence led on record. It has been further argued that Manish (whose necessity has been projected by the respondent-landlord) is aged 32 years and is carrying on his independent business

alongwith family members. The said business has a turn over in crores and, therefore, the necessity as projected by the respondent-landlord is without any basis and is in fact a mere desire and not a bonafide necessity. It has been further argued that the findings returned by the Authorities below on the ground that the petitioner has ceased to occupy the premises is also without any basis because the petitioner (tenant), in his evidence, has proved that due to some problem with his eyes he could not run the business for sometime. Hence the prayer has been made for setting aside the impugned orders.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and deserves to be dismissed.

A perusal of the record would reveal that in order to prove the necessity, the respondent (landlord) Mahabir Parshad entered into the witness box as PW-2 and his grand son Manish entered into the witness box as PW-3, who have in unison deposed that the demised premises is required for setting up a cloth business for Manish. Against the said oral evidence, no rebuttal evidence is coming forth which would dispel the strong presumption of bonafide necessity projected by the respondent (landlord).

In view of the above, the Authorities below had rightly ordered the eviction of the petitioner (tenant) on the ground of personal necessity.

As far as the other ground of cease to occupy is concerned, it is evident from the record that the Rent Controller had appointed a Local Commissioner, who had given its report, as per which he had visited the demised premises four times, however, the demised premises was lying closed. It is further evident from the record that there was no consumption

of electricity for the past one year, as has been deposed by Anil Kumar, LDC (Operation), Sub Division DHBVNL, Bhiwani who appeared in the witness box as PW-1.

In view of the above, I have no hesitation to concur with the findings returned by the Authorities below on this issue as well.

Keeping in view the foregoing discussion, finding no merit in the present revision petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

August 30, 2017
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>