

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

C.R. No. 6046 of 2015 (O & M)

Date of decision: 24.05.2017

Mobin Ahmad

...Petitioner(s)

Versus

Rajiv Kumar

...Respondent(s)

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

Present: Mr. A.K. Khubbar, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J.

The petitioner-tenant challenges the order of eviction dated 29.05.2014 passed by the Rent Controller, Yamunanagar at Jagadhri on the ground of bona fide requirement of the respondent-landlord from Shop No. 6, description of which is given in the eviction petition. The said order has been upheld by the Appellate Authority on 08.07.2015, which order is also under challenge in the present revision petition filed under Section 15 (6) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (in short 'the Act').

The eviction was sought on the grounds of bona fide requirement for the sale and repair of the computers of the landlord on the ground that the tenancy was at Rs.390/- per month and the rent had not been paid from May, 2011. The shop was required for the personal requirement and also on account of the fact that it had been sub-let to one Ashif Ahmad.

The petitioner-tenant denied the allegations of the non-payment on the ground that the landlord was not accepting the rent and that he was still a tenant in the shop and doing business of hair cutting therein. The bona fide requirement was also objected to and it was pleaded that Ashif Ahmad

was only a worker to rebut the allegations of subletting. On the framing of the issues and after keeping the evidence in mind led by the parties, the allegations of subtenancy were held to be not reliable and the fact that he had not been made a party also. The non-payment of rent was also addressed by noticing that counsel had not pressed the same. On the issue of bona fide necessity, it was noticed that the landlord appeared as his own witness and also placed on record his diploma certificate which was issued by The Indian Institute of Computer Education, which was the base of his cause of action. Necessary deposition having been made regarding the non-availability of other shops in contrast to the defence which has been set up by the tenant was duly noticed by the Rent Controller to come to a conclusion that the issue of eviction was on the ground of bona fide requirement and was sustainable and resultantly, impugned order was passed.

The matter was taken before the Appellate Authority who has taken into consideration the case law on the said issue regarding the fact and the principle laid down that the landlord is the master and need not even specifically plead which particular business is to be opened. The tenant could not take advantage in any manner as such and there was a presumption in favour of the landlord and his requirement was real and genuine. Resultantly, the findings of the Court below were upheld.

It is pertinent to notice that way back on 25.04.2016, a Co-ordinate Bench had noticed that counsel for the petitioner had taken time to seek instructions as to within how much time the petitioner would vacate the premises. The Court at that point had suggested that three months' time could be given as the appellate order was passed almost nine

noticed and counsel for the petitioner took more time to file the necessary affidavit so that premises could be vacated by 31.08.2017, giving almost two years' time from the order of the Appellate Authority. However, when the matter came up today, counsel submits that the petitioner is not willing to file the necessary undertaking.

The facts having been discussed in detail. The landlord has put in appearance and stood by his case and also showed that he is adequately qualified to run the business from the premises in question. There is no dispute regarding the relationship of landlord-tenant. Nothing has been brought on record to show that the bonafides of the landlord were doubtful in any manner as only the evidence of the tenant has come on record.

In such circumstances, keeping in view the principle laid down that the land lord is the best judge of his requirement and is wanting to use premises for running computer shop, the eviction which has been ordered by the Courts below does not suffer from any infirmity or illegality which would warrant interference in revisional jurisdiction.

Accordingly the present petition is dismissed in limine.

24.05.2017
shivani

(G.S. SANDHAWALIA
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No