

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

CR 6612/2017 (O&M)
Date of decision:26.10.2017

Prem Chand

.....Petitioner

v.

Arya Samaj Palwal

.....Respondent

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Adish Gupta,Advocate for the petitioner/tenant

Jaswant Singh,J,(Oral).

CM 22370-CII/2017 is allowed and documents Annexures A-1 to A-6 are taken n record.

Main case.

Petitioner/tenant is in revision against concurrent orders passed by the Authorities below whereby he has been ordered to be evicted from the demised shop on the ground of “personal necessity” by the Rent Controller,Palwal vide order dated 17.3.2015 and findings affirmed by Appellate Authority,Palwal vide order dated 18.8.2017.

Heard learned counsel for the petitioner/tenant.

It is submitted that the demised shop sought to be converted into a Janhit Library was not fit for the purpose as it lacked cross ventilation; the landlord-Arya Samaj was having several other buildings within the municipal limits of Palwal for its occupation where such a Library could be opened.

After hearing the learned counsel for the petitioner/tenant I find no ground to interfere in the present revision petition and the same is liable to be dismissed.

Both the Authorities below have noticed that the appellant has failed to disclose as to which other buildings on ground floor were in

possession of the landlord. While appearing as RW1, petitioner had stated that as per site plan Ex.R1 Arya Samaj owned 9 other shops at Sohna Road,near Naaz Cinema Hall,which were lying vacant, however, it was found by the Authorities below that the site plan did not show the name of the landlords and tenants thereof, so on the basis of site plan Ex.R1, it could not be held that said 9 shops were owned and in vacant possession of the respondent/landlord. Even otherwise, it is well settled legal principle that in eviction petition based on “personal necessity”, ownership of other properties by the landlord is not relevant, instead disclosure of occupation of other premises/properties by the landlord is the essential ingredient.

As regards suitability of the “demised shop” the Authorities below have rightly held that it is settled law that landlord is the best judge of his requirement and tenant cannot dictate his terms to the landlord; that Court cannot direct the landlord to use its property in a particular manner or purpose; and that bonafide of the respondent cannot be questioned by the appellant/petitioner. This is especially so, when Shri Chander Shekhar Mangla, President and authorised person of the respondent Samaj examined himself as PW2 and reiterated the version of his petition and that of Krishan Kumar PW1 who stated that being an old person of 69 years of age he alongwith other persons of the locality were unable to climb up the stairs to the first floor and thus deprived from the use of library properly.

In view of the above,finding no merit in this revision the same is hereby dismissed.

26.10.2017
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No