

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

CR 8767/2016

Date of decision:31.07.2017

Smt.Nirmala Devi

.....Petitioner

v.

Anand Kumar

.....Respondent

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Sumit Sangwan,Advocate for the petitioner/tenant

Mr.Birinder Singh Khehar,Advocate with respondent/
landlord-Anand Kumar.

Jaswant Singh,J,(Oral).

Petitioner-tenant is in revision against the concurrent findings recorded by the Rent Controller,Charkhi Dadri vide judgment dated 17.5.2016, duly affirmed by Appellate Authority,Bhiwani vide judgment dated 8.11.2016, whereby she has been ordered to be evicted from the demised “shop” on the ground of “ceased to occupy without sufficient cause for a period of more than four months” and directed to hand over vacant possession of the demised shop.

Counsel for the petitioner-tenant has argued that she is a widow having two children, including one mentally retarded and is engaged in the business of selling of cosmetics and bangles from the demised shop and the Courts below have ignored the evidence of a neighboring shopkeeper-Satbir Singh(RW-1) to the effect that the tenant was still carrying on her business. He further submits that a similar petition filed by the co-sharer/landlord on an earlier occasion on the same grounds had been dismissed.

On the other hand, learned counsel for the respondent-landlord submits that both the Courts below have concurrently found that statement of Satbir Singh (RW-1), in the light of his own admission in the cross-examination, was a procured testimony. He submits that tenant herself has admitted that she has not deposited electricity charges for a period of almost one year. The tenant also could not produce any record/bills regarding any sale/purchase of cosmetics and bangles to prove that any business activity was undertaken from the demised shop for the stated period. He thus submits that concurrent findings recorded on the issue are based on record and are well founded and require no interference in exercise of revisional jurisdiction of this Court.

After hearing learned counsel for the parties and perused the paperbook with their able assistance, this Court is persuaded to agree with the counsel for the respondent-landlord.

The relationship of landlord and tenant has not been disputed and so is the rate of rent at the rate of Rs.50/- per month. The eviction petition was filed on the ground of non-payment of rent w.e.f. 1.12.2003 to 30.11.2012 and also for non-occupation of demised premises for the last ten months preceding the date of institution of eviction petition i.e. 23.11.2012. The issue of “ceasing to occupy” has been well established on record. The tenant herself has admitted that there was no sign board of her business of cosmetic items existing on the demised shop for the claimed period. She has also admitted that she has not deposited any electricity charges for the said period nor could produce evidence of any sale/purchase of cosmetics and bangles. The plea of the landlord is supported by the evidence of adjoining shopkeeper, as also the Post Master and the officials of the Electricity Department. The factum of rejection of similar plea on previous occasion was concededly, for a previous period in the year 2003, and therefore, of no relevance for the present issue at hand.

In view of the above, no ground for interference in the present revision petition is made out. However, keeping in view the plight of petitioner-tenant, a widow and balancing the equities, to a pointed query, Mr.Anand Kumar-respondent/landlord,who is present in Court, has agreed to pay a sum of Rs.2.00 lacs to petitioner-Smt.Nirmala Devi by way of a demand draft as compensation on humanitarian grounds at the time of her handing over vacant and peaceful possession of the demised shop within a period of two months from today.

In view of the above,finding no merit in the present revision petition the same is hereby dismissed. However, the respondent-landlord would be bound by his aforesaid offer subject to the petitioner/tenant handing over vacant and peaceful possession of the demised shop to respondent-landlord on or before 30.9.2017.

31.07.2017
joshi

(Jaswant Singh)
Judge

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