

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

CR No.2236 of 2007 (O&M)
Date of decision : 29.08.2018

Vijay Kumar

...Petitioner

Versus

Ajay Kumar Mahajan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Kuldeep Sanwal, Advocate for the petitioner.

Mr. Ashwani Kumar Chopra, Sr. Advocate with
Mr. Ankit Midha, Advocate and
Ms. Eesha Khanna, Advocate for the respondents.

ANIL KSHETARPAL, J.

Arguments were heard. Judgment was reserved. The judgment is being released.

The tenant-petitioner is in the revision petition against the order passed by the learned Appellate Authority reversing the judgment of the Rent Controller and ordering his eviction.

It may be noted that during the pendency of the present petition, which has come up for hearing after a period of 11 years, it was pointed out by the learned counsel for the landlords that during the pendency of the revision petition, the shop in question was burnt in a fire and had fallen down and the premises in dispute which was under tenancy ceased to exist.

The order passed on 14.08.2018 by this Court, is extracted as under:-

“Learned counsel for the respondents-landlords has submitted that during pendency of the revision petition, the shop in question was burnt in a fire and fallen down and shop is no more in existence.

Learned counsel for the petitioner wishes to seek instructions.

List in the urgent on 24.08.2018.”

Today when the case was taken up for hearing, counsel for the petitioner has pleaded no instructions on the ground that tenant has taken away the case file from him. Neither the petitioner is present in person nor anyone else is present on his behalf.

Learned Appellate Authority has noticed that respondent No.2 particularly and respondent Nos.1 to 5 in general have sublet the demised premises to Vipin Kumar who is in exclusive possession of the demised premises and is running the business of readymade garments under the name of M/s Vipin Readymade Garments.

Landlords in order to prove the ground of subletting have examined Puran Parkash, Superintendent, District Industries Centre, Batala as AW5 and M.R. Bhagat, Assistant Manager, State Bank of India, Batala as AW6. These witnesses have proved the documents Ex.A5 to Ex.A13 which were submitted by Vipin Kumar to the Industry Corporation as well as State Bank of India at the time of seeking loan for running his business under the scheme floated by the bank. It shows that a rent note Ex.A7 has been executed by respondent No.2 in favour of Vipin Kumar and shop has been given on rent at a monthly rent of ₹140/-. Still further, the evidence produced on behalf of tenant does not even refer to the aforesaid documents.

It has been noticed by the Court that the business at that time was being run under the name of M/s Vipin Readymade Garments.

In the grounds of appeal, it has been pleaded that Vipin is the son where as Raj Pal is father, therefore, there is no subletting. In the present case, rent note executed by Raj Pal in favour of Vipin Kumar has come on file as Ex.A7. In such circumstances, merely because Vipin Kumar and Raj Pal are father and son, would not absolve the tenant and sub-tenant from eviction. Still further as noticed, the premises, which was leased out does not exist. Hence, there is no scope for interference.

Revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

29.08.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No