

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

1. CR No.1568 of 2011 (O&M)
Date of decision : 01.08.2018

Sudarshan Singh

...Petitioner

Versus

Mohan Lal

...Respondent

2. CR No.1765 of 2011 (O&M)
Date of decision : 01.08.2018

Sudarshan Singh

...Petitioner

Versus

Ravinder Kumar Sharma

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Piyush Kant Jain, Advocate for the petitioner.

Mr. K.D. Sidhu, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

This order shall dispose of CR Nos.1568 and 1765 of 2011 filed by the landlord against the order passed by the Appellate Authority, dismissing the petition for ejectment on the ground of bona fide personal necessity.

The petitioner pleaded that he retired as Head Master from

Government High School, Bhabat on 30.06.1996 and thereafter took another assignment as Head Master of Shahid Bhagat Singh Khalsa Adarsh School, Padiala, Tehsil Kharar, District Mohali and finally quit the job in April, 2003. He sought ejectment of the tenants on the ground of bona fide necessity in both the case and in one case i.e. in CR No.1568 of 2011, cease to occupy the premises for four months was also one of the ground on which eviction of the tenant was sought. However, this Court does not find any requirement to deal with the issue of cease to occupy. The petitioner claimed that he now wishes to open a coaching centre for students as the property in question is located on college road.

Learned Rent Controller ordered the eviction which has been reversed by the Appellate Authority by giving following reasons:-

1. In the adjoining shop, some welding work is carried on and, therefore, running of coaching centre would not be possible as it will be very noisy.
2. College road is busy road and because of traffic, there would be a lot of noise.
3. The petitioner lives in Kharar, whereas the shops are situated in Ropar which is at a distance of 30 KM.
4. The petitioner is having a good pensionary income not only for himself but also for his wife and son of the petitioner, is also earning sufficiently, therefore the petitioner is not required to work.

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the judgments passed by both the Courts below.

Learned counsel for the parties are ad idem that these are the only grounds on which Appellate Authority has reversed the finding. On reconsideration of the matter, this Court is of the view that all the four reasons assigned by the First Appellate Court while reversing the finding of the learned Rent Controller, are erroneous.

It is for the landlord to decide whether it will be suitable for him to start work of coaching or not at a particular place. These days, number of methods are available whereby the premises can be made sound proof. Still further, it is also well settled that the Court cannot substitute its own opinion in place of the opinion of the landlord. It is also not in dispute that the property is situated at college road. The coaching centre can be best run in that area. Hence, first two reasons assigned are clearly erroneous.

With regard to the residence of the petitioner is concerned, it may be noted that the distance between Kharar and Ropar is only 30 KM. It is for the landlord to decide whether he wants to commute daily or wants to shift. The Court cannot refuse the ejectment on the ground that at this age, it will not be good for the health of the landlord to travel. Similarly, even with regard to the availability of the good income, it is always for the landlord to decide whether he wants to continue to work or not. It may be noted that the petitioner has throughout work in this area only. He retired as Head Master from Government High School, Bhabat. Thereafter, he worked in the area of Kharar which was earlier part of Ropar District but now is part of District SAS Nagar, Mohali.

Learned counsel for the respondent-tenants has pointed out that now the age of the landlord is more than 80 years. It may be noted that when

petition was filed in the year 2004 when the landlord-petitioner was only 66 years old. With the availability of the good medical facility, life expectancy has increased. A person who was aged about 66 years who has throughout remained in teaching profession and wishes to open the coaching centre, his bonafide requirement cannot be doubted on the ground of age.

In view thereof, the orders under challenge are set aside.

Both the revision petitions are allowed.

The respondent-tenants are granted two months time to handover the vacant possession of the premises.

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

01.08.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No