

CR-1502 of 2018 (O&M)

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

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**CR-1502 of 2018 (O&M)
Date of Decision : 9.3.2018**

Anoop Kumar Bansal

....Petitioner

VS

Gurbachan Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Pankaj Jain, Advocate
for the petitioner.

Mr. Mandeep Singh Sachdev, Advocate
for the respondents-caveator.

AJAY TEWARI, J.(Oral)

This revision has been filed against the order of the appellate authority reversing that of the trial Court and thereby allowing an eviction petition filed by the respondent. The case of the respondent was that there were five shops in his house in one line. One of those shops abutted on two roads and had been vacated and was in his possession. The adjoining shop was in the possession of the petitioner, and out of the remaining three shops one was being used as generator room, one as a passage and last one as a garage. He wanted to start a departmental store in two shops with the help of his son who is well settled in the United States of America and would provide the investment.

The case of the petitioner on the other hand was that he could

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well use the three shops; that is the one used for generator, one as passage, one as a garage and consequently as per the petitioner there was no bonafide personal necessity. The rent controller accepted the contention of the petitioner and dismissed the eviction petition. The appellate authority allowed the appeal of the landlord and that is how the petitioner is before me.

Counsel for the petitioner has defended the order of the rent controller while counsel for the respondent defended the order of the appellate authority. The Rent controller held that firstly it was 'beyond imagination' that a person who has a petrol pump in the United States of America would want to run a departmental store and that it was 'surprising' that an 80 year old man would want to run a departmental store. Further, as per the Rent controller the respondent could well use the other shops for his necessity. On the other hand the appellate authority noticed that the corner shop (which abuts on two roads) was already in possession of the petitioner; the other three shops (which abut only on one road) are not adjoining to the corner shop and that if the petitioner was evicted from the shop in dispute, the respondent would have two adjoining shops which would abut on two roads and thus returned the finding that the suitability of the premises was the concern of the landlord and tenant was no one to dictate the same.

In my considered opinion, the findings of the appellate authority are correct. I have found that at least two of the reasons that weighed with the Rent controller were either those which were 'beyond his imagination' or which were 'surprising' to him. To my mind, this is a

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completely subjective opinion. What is beyond the imagination for one person may not be so for another person and what I find surprising may be common place to another. These kinds of reasons can never be objective. I have also seen the plan. A perusal thereof makes it clear that two shops which would now be available to the respondents would definitely have a much better locational advantage as regards the business prospects than the other three shops.

In the circumstances, the revision is dismissed.

Since the main case has been decided, the pending C.M, if any, also stand disposed of.

9.3.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No