

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

CR No.164 of 2018 (O&M)
Date of decision : 12.10.2018

Hari Krishan

...Petitioner

Versus

Omkar Nath and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. M.S. Sachdev, Advocate for the petitioner.

Mr. H.K. Aurora, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

CM No.7224-CII of 2018

Prayer in the application is for granting mesne profits for the use and occupation of the demised premises.

Application is dismissed as not pressed.

Main case

The tenant-petitioner is in the revision petition against the order passed by the Rent Controller affirmed by the Appellate Authority.

In fact, this petition was filed by two brothers out of whom one namely Omkar Nath has already died. The Appellate Authority has adjudicated upon the appeal assuming that there is a pleading that Omkar Nath and Ram Singh jointly were bonafidely require the premises for expansion of the business. However, on careful perusal of the pleading, it is

apparent that the requirement of Ram Singh was only pleaded. It is the case of the petitioner-tenant that since Omkar Nath was unmarried, therefore, the aforesaid shop has become available.

Keeping in view the aforesaid facts, it is considered appropriate to set aside the findings of the Courts below and remit the case back to the learned Rent Controller while granting the liberty to the parties to amend their pleadings in view of the subsequent development. It is unfortunate that the decision in such cases take long time and the landlords sometime without even getting an opportunity to see the final result, leave the world. However, death is inevitable and the Court cannot shut its eyes to the subsequent developments.

Keeping in view the aforesaid facts, both the judgments are set aside. Parties are granted liberty to file the amended pleadings, if they wish to do so and the Rent Controller would thereupon make a sincere effort to decide the case expeditiously.

In view of the above, the present revision petition is disposed of.

Parties through their counsel are directed to appear before the Rent Controller on 12.11.2018.

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

12.10.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No