

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

753

CR No.3452 of 2009 (O & M)
Date of Decision:31.07.2018

Jai Kumar

...Petitioner

Versus

Rajesh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay Singh Kajla, Advocate
for the petitioner.

Mr. Ashok Giri, Advocate
for respondent No.1.

ANIL KSHETARPAL, J.(Oral)

Landlord-petitioner is in the revision petition against the orders passed by the Rent Controller confirmed in appeal.

Petitioner sought eviction of the tenant-respondent on the ground of bonafide requirement personal necessity. It was pleaded in the petition that the petitioner-landlord is a Medical Practitioner and earlier he used to practice by moving from one place to another but now he is not able to perform his profession by moving from one place to other, therefore, he wants to set up his practice in shop in question. It was further pleaded that the petitioner has two young sons, who are also unemployed. It was further pleaded that the petitioner does not have any other shop. It was pleaded that the petitioner or his sons does not have any other shop except the premises in dispute in the urban estate concerned either owned or possessed. Defendant contested the petition and pleaded that the petitioner-landlord is

are residing in separate properties.

Both the Courts dismissed the petition while relying upon assessment register Ex.R-2 and R-3 for the year 1999-2000. On the basis of the copy of the assessment register, finding has been given that the petitioner is in occupation of other commercial properties.

Learned counsel for the petitioner has drawn attention of the Court to the statement of the petitioner, who has appeared as PW-1. During examination-in-chief, petitioner has specifically asserted that he does not either own or possess any shop in the urban area of Hansi. He has further pleaded that he has never purchased any property except this shop and, therefore, there is no question of his having vacated any premises. During cross-examination, suggestions were given that the petitioner-landlord that he is owner of certain other shops, which was specifically denied by him. Ex.R-2 and R-3, the assessment registers, were not put to the landlord-petitioner.

Learned First Appellate Court even after recording that copy of the assessment register is not a proof of ownership, still dismissed the petition on the ground that the petitioner has other properties on State Bank Road while relying upon Ex.R-2. On careful examination of Ex.R-2, it is apparent that the property referred to is a residential property and there is only one shop (in dispute).

Learned counsel for the respondent while referring to the cross-examination has submitted that the petitioner is owner of another building and, therefore, the petitioner is not entitled to any eviction.

On careful reading of the aforesaid statement, it is apparent that

the petitioner is not in possession of the aforesaid building.

As per the requirement of Act, petitioner should not be in occupation of any other building and he has not vacated such building without sufficient cause. In the present case, both requirements were duly pleaded and evidence has been led. Learned First Appellate Court has rightly held that Ex.R-2 and R-3, copies of the assessment registers are not proof of ownership. Since these documents were not put to the petitioner, therefore, it could not be used against the petitioner.

In view thereof, the findings of the learned Courts below are erroneous. Hence, these are set aside.

Revision petition is allowed.

Respondent-tenant is ordered to be evicted. However, he is granted two months time to hand over vacant possession of the premises to the petitioner.

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

31.07.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No