

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127

CR-3627-2004 (O&M)
Date of Decision : 03.12.2018

Wazir Ahmed and another

..... Petitioners

Versus

Hafiz Noor Din

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. Surinder Garg, Advocate
for the petitioners.

Mr. Aakash Singla, Advocate
for the respondent.

AJAY TEWARI, J. (ORAL)

This revision has been filed against the concurrent orders of the courts below allowing an eviction petition filed by the respondent-landlord on the ground of ceased to occupy.

The case of the respondent was that the petitioners had taken the premises comprising of 8 Biswas of land and one room in the year 1990. Initially they started the business there but closed it down w.e.f. 01.09.1995 and had kept it closed for more than 1½ years. During the evidence, the respondent produced neighbours who stated that the premises had been locked for the last 4-5 years. The evidence was recorded in the year 1999.

The Court also appointed the Local Commissioner on the date when the

eviction petition was filed who reported that when he visited the premises,

the same was lying locked, some pieces of marble were lying and the grass was over grown. On the other hand, the case of the petitioners was that originally they had started the business of marble but after some time they had started the business of scrap. However, it is noteworthy that they were not able to produce any document, income tax return or any other objective evidence that they were running any business. Even no electricity bill was placed on record and on the basis of these facts both the courts have come to a finding that the claim of the respondent was more probable and allowed the eviction petition.

Counsel for the petitioners has argued that the report of the Local Commissioner could at best be taken to show that on the date when he visited the premises it was locked and the oral evidence cannot be considered.

In my opinion, the Court has to come to a conclusion after considering the evidence of both the parties. It is inconceivable that in today's days and age any business at any site can be run without electricity or any paper work whatsoever. Once the testimony of the Local Commissioner and the neighbours did raise a presumption in favour of the respondent the petitioners had to rebut the same but they failed to do so. Further it cannot also be lost sight of that in a case of closure and ceasure to occupy, the landlord can normally only prove oral evidence and then it is for the tenant to rebut that evidence by giving positive evidence that in fact he was occupying the premises.

Consequently, I find no fault with the findings of the courts

Since the main cases have been decided, the pending civil miscellaneous application, if any, also stands disposed of.

December 03, 2018
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No