

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

**CR No.2712 of 2013 (O&M)
Date of Decision:03.08.2018**

M/s Hindustan Petroleum Company Limited through its Senior Regional
Manager ...Petitioner

Versus

Bhushan Kumar and others

...Respondents

CR No.5066 of 2013 (O&M)

Smt.Ameeta Puri and others

...Petitioners

Versus

Bhushan Kumar and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Aman Arora, Advocate for the petitioners in
CR No.2712 of 2013.
Mr.Vishal Aggarwal, Advocate for the petitioners in
CR No.5066 of 2013.
Mr.Vikas Singh, Advocate for the respondents.

ANIL KSHETARPAL, J.

By this judgment, Civil Revision Nos.2712 of 2013 and 5066 of 2013 shall stand disposed of, as the issue arising for determination is common. Both these revision petitions have been filed by the tenants.

Learned Rent Controller as well as the Appellate Authority ordered eviction of the tenants from the premises in dispute. A Public Undertaking has installed a Fuel Station, which is being run by the petitioners in CR No.5066 of 2013.

One of the grounds which survive for determination is bonafide requirement of the landlords.

Learned counsel for the petitioner-tenant(s) has submitted that a commercial building cannot be got evicted for the purpose of residence. He has further submitted that there are no pleadings that the premises in dispute are required for the commercial purpose. He has next submitted that even evidence of one of the landlord who has appeared in the witness box namely Bhushan Kumar also does not state that the premises is required for commercial purpose.

On the other hand, learned counsel for the landlords has submitted that in the petition it has been pleaded by the landlords that the rented premises is required for their own use and occupation and they want to build a house and business premises over the land. He has pointed out that land in the shape of plot was given on rent. He has further drawn attention of the Court to the statement of Bhushan Kumar, one of the landlord, wherein he has reiterated that they wanted to expand their shoe business apart from having comfortable residential premises. Hence he has submitted that the eviction premises has been sought for dual purposes, i.e. residential as well as commercial.

This Court has carefully examined the evidence and pleadings available on the file.

In para 4(ii) of the application for ejectment, landlords had pleaded as under:-

(i) XXX XXX XXX XXX XXX
 XXX XXX XXX XXX

(ii) *That the applicants bonafide require the rented land for their own use and occupation. The applicants want to build house and business premises over the said land. The families of the applicants have expanded. The family of each of the applicant require separate accommodation. They have five married sisters who quite often come with their children to reside with the applicants. The present accommodation*

available with the applicants in Krishna Gali Pathankot is absolutely insufficient for their accommodation. There is litigation of Dharam Vir applicant with Improvement Trust Pathankot over another plot of land. The applicants are unable to survive by doing shoe business in the rented shop situated in main bazar Pathankot. The applicants are not occupying in the Urban Area concerned for the purpose of their business and residence any other such rented land and they have not vacated such rented land without sufficient cause after the commencement of this Act, in the Urban Area concerned.

Apart therefrom when Bhushan Kumar appeared in the witness box, he specifically stated that they are facing great difficulty in running of their shoe selling business and they wanted to diversify their business. It has further been pleaded that they need the premises for residential and for business purposes as the accommodation available with them is insufficient and children have grownup. He has pointed that he has three children, whereas other applicant Dharam Vir is also having three children and applicant No.3 Bhadar Sain has one daughter.

In view of the aforesaid position, learned counsel for the petitioner-tenant(s) was not correct in submitting that eviction from the commercial premises is being sought for the residential purpose. As noticed earlier, the requirement is for residential and commercial purpose both. Still further, it is not in dispute that rented land was given on lease. It is not a case of commercial building which was given on lease. The Fuel Station has been constructed and installed by the Hindustan Petroleum Corporation, the petitioner in CR No.2712 of 2013.

In these circumstances, the argument of the learned counsel for the petitioner-tenant(s) that eviction from the commercial premises is being sought for the purpose of residential is factually incorrect.

In view of the discussion made above, this Court does not find any ground to interfere with the findings of fact arrived at by the Rent Controller, affirmed in the first appeal. Hence both these revision petitions are dismissed. Pending application(s), if any, shall also stand disposed of.

03.08.2018
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:Yes/No

Whether Reportable: Yes/No