

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

CR No.2572 of 2017 (O&M)

Date of Decision: February 23, 2018

Rattan Lal

...Petitioner

Versus

Smt. Geeta Devi

...Respondent

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Aditya Sanghi, Advocate
for the petitioner.

Mr. Gurcharan Singh Gandhi, Advocate
for the respondent.

HARINDER SINGH SIDHU, J.

This revision petition has been preferred by the petitioner-tenant against the orders of eviction passed by the courts below.

The respondent -landlord had filed the eviction petition seeking ejectment of the petitioner-tenant on the ground of non-payment of rent and non-user of the premises. It was averred that the petitioner-tenant had taken the shop in question on rent @ Rs.80/- per month besides house tax vide a rent note dated 23.11.1977 for a period of ten month from the husband of respondent-landlord. The rent was enhanced from time to time. A petition for fixing fair rent was filed in which vide judgment dated 29.10.2006, the fair rent of the shop was fixed at Rs.250/- per month besides house tax etc. Besides alleging

non-payment of rent for a period of 32 months from 01.04.2007 to 30.11.2009. it was also stated that the tenant had closed the shop for more than one year as he was doing business from another shop and thereby impaired the value and utility of the shop in question. During the pendency of the petition the tenant paid the entire rent, hence the ground of non-payment of rent no longer survived. However, the ground of non-user of the shop and impairment of its value was proved. The petitioner-tenant had himself admitted that permanent disconnection order of electricity to the shop had been taken by him about 6-7 years back. He produced no bills, challans, sales tax papers or any other document to prove that the shop in question was being used. The tenant had claimed that he was using the shop in question for running business of selling clothes but he did not produce any document to substantiate this assertion. Ld. Rent Controller held that it was unbelievable that the business of a cloth shop which the tenant claimed to be running from the demised premises could be conducted without issuing bill/receipt for the purchase or sale of clothes. It was also unbelievable that no bahi etc. be maintained in respect of business transacted there. Accordingly, it was concluded by the Ld. Rent Controller that the shop in question was not being used and eviction of the tenant was ordered. Ld. Appellate Authority affirmed the finding of the Rent Controller. Additionally, it also relied on the report of the Local Commissioner, who in his report had mentioned that he had visited the shop on two different dates and on both occasions, he found the shop closed and dust deposited on the doors. Further it was found as a matter of fact that the petitioner-tenant was doing business from another shop in the name of 'Mohit Sari Centre.'

There appears to be no infirmity in the findings recorded by the

