

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 2613 of 2017

Date of decision:- 22.02.2018

Om Parkash

...Petitioner

Versus

Subhash Chander and Anr

...Respondents

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Sandeep Singh Ghangas, Advocate,
for the petitioner.

RITU BAHRI J. (Oral)

Petitioner (tenant)-Om Parkash has filed the present civil revision against the order dated 21.03.2017 whereby application moved by the petitioner-tenant for leading additional evidence to prove the photographs of the shop of Munish Kumar son of the respondent-landlord, namely, Subhash Chander has been dismissed by the learned Rent Controller, Panipat.

Brief facts of the case are that applicant/respondents pleaded that the petitioner/landlord has sought their ejectment under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, on the ground that he does not have any other shop in his possession and requires the same for his son Munish. The son of the petitioner is running a medical shop in the first floor and has rented out the ground floor as per his own admission in the evidence. Now they have come to know he is running a shop on the ground floor by the name of the Regal Pharma and using the first floor as a godown. Similarly, the petitioner has denied that he does not have any vacant shop in his possession whereas in building No.149/3 several vacant shops are there in his possession. The respondent has taken the photographs of the shop of Munish son of the landlord and other shops therefore, his

examination is necessary in additional evidence which is relevant to the decision of this case. It is further pleaded that previously an application for appointment of Local Commissioner was filed which was dismissed by the court vide order dated 11.08.2016 and now they have come to know that shop is being run on the ground floor which belongs to Munish and the licence of the son of the petitioner is required to be proved from the office of District Drugs Inspector, Panipat, which is necessary for the just decision of this case. Hence the petition before the Rent Controller.

Upon notice of this application, landlord filed the reply taking preliminary objection with regard to non-maintainability of the present application and and application being filed just to delay the decision of the present case. The landlord sought eviction of the respondent's on the ground that his son is running a business on Ist Floor shop situated near Salarganj Gat and sanchin and Akash their other tenants have already vacated their premises and their shops are not sufficient for running the business. His son has met with an accident, therefore, he is not in a position to go up and down stairs, whereas the shop at the ground floor situated at Salarganj Gate is in possession of tenant namely Aman Kumar who is running photography business.

On the basis of averments mentioned in the said application for leading additional evidence has been dismissed by learned Rent Controller on the basis of that ejectment petition has been filed by the petitioner against the respondents on 17.12.2013. The plea taken by the petitioner in the rent petition for the eviction of the respondents is that he requires the tenanted premises for the bonafide requirements of his son, the fact which has been disputed by the respondent from the very beginning. The issued in

this case were framed on 10.11.2014 and evidence of the petitioner has closed on 05.10.2015, whereas the respondents have closed their evidence on 21.12.2015 and an application for leading additional evidence was moved on behalf of respondents for appointment of Local Commissioner for ascertaining that the petitioner is in possession of the vacant shops in building No. 149 ward N.3, panipat has been dismissed on 11.08.2016. Hence the present petition.

I have heard the learned counsel for both the parties and have perused the case file and application requires to be allowed.

A perusal of the order shows that landlord has sought their ejectment on the ground that he does not have any other shop in his possession and requires the same for his son Munish. It is also apparent that, landlord has sought eviction of the respondents' on the ground of 'bonafide necessity' for the use of his son namely Munish Kumar, who was earlier doing the business of whole sale medicines in his shop situated at Shankar Market, near Salarganj Gate, Panipat who now met with an accident, therefore, he is not in a position to go up and down stairs. In the evidence of Munish son of petitioner who stated that he is running a medical shop in the first floor by the name of 'Regal Pharma' and using the first floor as a godown. Similarly, the petitioner/landlord has denied that he does not have any vacant shop in his possession whereas in building No.149/3 several vacant shops are there in his possession.

Keeping in view the facts and circumstances, thus, the evidence ought to be produced by way of additional evidence goes to the root of the case to show whether Munish Kumar is running his business from the ground floor or not which is the main ground on which landlord got

eviction.

Hence, order is being hereby set aside.

Accordingly, revision is being allowed.

22.02.2018
Riya Grover

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes
Whether reportable : No