

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

1. CR No.3107 of 2017 (O&M)
Date of decision : 17.09.2018

Anuj Bansal and others

...Petitioners

Versus

Smt. Usha Gupta

...Respondent

2. CR No.3129 of 2017 (O&M)
Date of decision : 17.09.2018

Ashish Tayal

...Petitioner

Versus

Smt. Usha Gupta

...Respondent

3. CR No.3344 of 2017 (O&M)
Date of decision : 17.09.2018

Surender Kalra

...Petitioner

Versus

Smt. Usha Gupta

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Baldev Singh Badhwan, Advocate for the petitioner(s)
(In CR No.3344 of 2017)

Mr. Kartar Singh, Advocate for the petitioner(s)
(In CR Nos.3107 and 3129 of 2017)

Mr. Keshav Partap Singh, Advocate
for the respondent-Caveator.
(In all the revision petitions)

ANIL KSHETARPAL, J. (ORAL)

By this order, CR Nos.3107, 3129 and 3344 of 2017, shall stand disposed of as common issues need determination in these revision petitions. Counsel for the parties are ad idem that these three petitions can be disposed of by a common judgment.

In all these three cases, the tenants/petitioners are in revision petitions against the order of eviction passed by the learned Rent Controller affirmed by the Appellate Authority. The eviction has been ordered on two grounds:-

1. Bona fide requirement for the son who is already in business but wants to expand and construct a bigger showroom.
2. The building is unfit and unsafe for human habitation.

The tenants had taken a defence that son of the landlady is already running a business in the adjoining premises of the petitioner and the landlady and her husband are owners of five shops.

Both the Courts after examining the evidence have found merit in the petition filed by the landlady on both counts.

With regard to the bona fide requirement, the Courts have found that son of the landlady is already in the business of trading in electronics goods and now he wishes to expand his business and construct a bigger showroom.

As regards condition of the building, the Court has relied upon the report of the qualified building expert produced by the landlord who has also appeared in evidence as PW6. The relevant part of the report as extracted by the Rent Controller is extracted as under:-

- “(a) Floor level of the shop in dispute is lower than the road level due to which rainy water can easily seep through the building.*
- (b) Height of the roof from floor is also below the minimum standard for a shop to be fit for human habitation.*
- (c) Plaster is losing space, as per the rebound hammer test conducted on the shop in dispute.*
- (d) Mortar used in the shop in dispute has lost its strength.*
- (e) The walls on the shops are having seepage.*
- (f) Bricks are disintegrating day by day due to entry of water from front.*
- (g) Floor is in bad condition, which was confirmed by Rebound hammer test. Floor is beyond repair.*
- (h) Roof of the shop has sagged from centre.”*

No doubt, the tenant has also produced building expert who has reported otherwise but both the Courts below have found that such report submitted by the building expert produced by the tenant is not reliable.

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Rent Controller, affirmed by the Appellate Authority.

Learned counsel for the petitioner-tenant in CR No.3344 of 2017 has pointed out that the landlady and her husband are owners of five shops. This fact is not disputed by the landlord. However, he has specified

that he is already in the business of trading of electronics goods and, therefore, he wants a bigger showroom to expand his business. He has specifically pleaded and proved that he wants to open a big showroom by merging adjoining shops as well as the first floor of the premises. It has been pleaded that son of the landlord needs at least 30 feet front which is total front area of all the shops.

Keeping in view the findings of the Courts below, which are neither shown to be perverse nor result of any mis-reading or non-reading of the evidence, this Court does not find any good ground to interfere. Hence, revision petition i.e. CR No.3344 of 2017 is dismissed.

It is not disputed that in other cases, the Courts below have held that landlady has proved bona fide necessity of his son. It may be noticed that in CR No.3107 of 2017, in execution of the decree, the possession has already been taken over by the landlord.

For the reasons given while deciding CR No.3344 of 2017, these revisions i.e. CR Nos.3107 and 3129 of 2017, are also dismissed.

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

17.09.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No