IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of Decision : 02.04.2018

1. **CR No.3717 of 2016 (O&M)**

Ramesh Kumar

..... Petitioner

Versus

Rohit Dudeja @ Sonu ..... Respondent

2. **CR No.3719 of 2016 (O&M)**

Ramesh Kumar

..... Petitioner

Versus

Rohit Dudeja @ Sonu ..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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Present : Mr. Manoj Kakkar, Advocate
for the petitioner.

Mr. Kanwal Goyal, Advocate and
Ms. Khyati Goyal, Advocate
for the respondent.

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AJAY TEWARI, J. (Oral)

This order shall dispose of above mentioned two civil revisions.

These revisions have been filed against the judgments of the appellate authority allowing an appeal filed by the respondent and dismissing the cross objection filed by the petitioner.

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The petitioner had filed a petition for eviction of the respondent from the shop in dispute on the twin grounds of non payment of rent and personal necessity. It was stated by him that he had given the shop on rent at Rs.8,000/- per month and that the respondent had not paid the rent for the period from 01.06.2011 to 31.01.2013. As regards the personal necessity it was stated that he required the shop for setting up the business for his son-Kamal. In the written statement, the stand taken by the respondent was that in fact the rent was Rs.700/- per month and not Rs.8,000/- per month as claimed by the petitioner. As regards personal necessity the stand of the respondent was that the petitioner had not disclosed that he had got vacated another shop about 2 years ago. In the replication the petitioner reiterated his claim regarding the rate of rent and as regards this shop which he had got vacated it was stated that that was in the possession of his other son-Sunny who was running his business there. Since none of the parties led any written evidence about the rate of rent the Rent Controller provisionally assessed the rent at Rs.1,500/- per month. The provisional rent was deposited by the tenant. However, the Rent Controller held that the personal necessity was proved and allowed the rent petition on the ground of personal necessity.

The respondent filed an appeal against the eviction and the petitioner filed cross objections with regard to the rate of rent. The appeal of the respondent having been allowed and the cross objections of the petitioner having been dismissed he is before this Court.

Learned counsel for the appellant has not raised any argument on the issue of rent but on the issue of personal necessity has argued that the appellate Authority erred in dis-entitling him from getting the shop vacated

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just because the other shop had been got vacated about 2 years prior thereto.

Learned counsel for the respondent has, however, argued that actually the petitioner was guilty of concealment of facts. As per him it was incumbent upon the petitioner to have mentioned in the rent petition that he had got vacated the shop about 2 years prior thereto. He has further argued that even if that non-disclosure is not fatal yet in the replication the petitioner stated that the shop which he had got vacated was in the possession of his second son but in the cross examination he admitted that he had let it out on rent to his son-in-law. As per learned counsel this clearly demolishes the case of the petitioner.

Learned counsel for the petitioner is not in a position to offer any explanation as to how the petitioner's case can be allowed once he has himself admitted in his cross examination that the second shop which was got vacated about 2 years prior thereto (and which he had claimed was in the possession of his other son) was rented out to his son-in-law.

In the circumstances, no fault can be found with the judgment of the appellate Authority.

Consequently, both the petitions are dismissed.

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

(AJAY TEWARI)
JUDGE

02.04.2018
Pooja sharma-I

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

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