

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CR-4485-2015 (O&M)

Date of Decision : 18.12.2018

Union of India and others

..... Petitioners

Versus

Ayodhaya Parshad Bhanot

.... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Sudhir Nar, Advocate
for the petitioners.

Mr. Satinder Khanna, Advocate
for the respondent.

AJAY TEWARI, J. (ORAL)

This petition has been filed against the concurrent judgments and orders of the courts below ordering the ejectment of the petitioners from the ground floor of the shop-cum-flat owned by the respondent.

The case of the respondent was that he needed the tenanted premises to set up a business for his grandson who had done B.Tech and was unemployed. In the written statement the petitioner denied the bonafide need of the respondent for opening a showroom for his grandson. The respondent appeared as his own witness and at that time the thrust of the cross-examination to which he was subjected was that in fact he was the owner of the entire showroom and he could use the first, second or third floor. While replying to these questions, the consistent case of the

respondent was that in fact there was a partition between him and his brother wherein he was allotted the ground floor and the first, second and third floor fell to the share of his brother. The respondent also examined the grandson for whose favour the premises was being sought. During his cross-examination the respondent stated that the partition between him and his brother had taken place in Court but it was a longtime ago and he did not have the judgment and decree thereof. Thereafter, the petitioners led their evidence which was mainly to the effect that the postal services were a highly subsidized public service and served the need of the population. In rebuttal the respondent placed on record the judgment and decree dated 28.10.1977 whereby the property had been partitioned between him and his brother. Ultimately, both the courts below having allowed the eviction the petitioner-UOI is before this Court.

Counsel for the petitioners has argued that by permitting the respondent to place the judgment of 1977 on record in rebuttal, valuable right of the petitioners to cross-examine him on this aspect was denied.

In my opinion, this argument has to be rejected. As noticed above, during the cross-examination the entire thrust of the counsel for the petitioners was to the effect that there was actually no partition and the entire property was owned by the respondent and this suggestion was repeatedly and firmly misplaced by the respondent in the cross-examination. In the circumstances, no prejudice can be said to have been caused to the petitioners because even in the absence of the said judgment and decree the courts would have been justified in allowing eviction of the ground floor. Even if it is assumed (though not admitted) that it was the respondent who

had a bonafide requirement of the ground floor for his grandson. In the totality of circumstances, I am not in a position to come to the conclusion that the judgments and orders of the courts below suffer from any legal infirmity. Consequently, the petition is dismissed. However, considering the fact that the Union of India is running a post office over the premises in dispute, they are granted eight months' time i.e. till 31.08.2019 to vacate the same, to the condition that they deposit the upto date arrears of rent alongwith future rent upto 31.08.2019 before the Executing Court on or before 31.01.2019.

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

(AJAY TEWARI)
JUDGE

December 18, 2018
ashish

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No