

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4370 of 2018 (O&M)
Date of Order: 12.07.2018

Sohan Singh and another

..Petitioners

Versus

Pushpa Sharma deceased through her LRs
Vinkal Sharma etc.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. N.C.Kinra, Advocate,
for the petitioners.

ANIL KSHETARPAL, J(Oral)

Tenants-petitioners are in the revision petition against the order of eviction passed by the learned Rent Controller on the ground of bonafide requirement and building being unfit and unsafe for human habitation. The appeal filed by the tenants has also been dismissed.

The landlady late Smt. Pushpa Sharma had sought eviction of the tenants on the ground that she requires the premises, which is a shop, for settling her sons Vinkal Sharma and Sandeep Sharma, who are without any job or work.

This court has heard learned counsel for the petitioners-tenants at length. Learned counsel for the petitioners has submitted as under:-

- (i) petitioner have failed to disclose details of the other properties which were owned by her or her legal heirs for whom eviction was sought;
- (ii) petitioners have failed to prove that she is the landlady as

the petitioners claim that the property had come to her by way of family settlement and a testamentary document which has not been produced on file.

This court has considered the submissions made by counsel for the petitioners and with his able assistance gone through the judgments passed by the courts below and photocopy of the record.

Learned counsel for the petitioners frankly admitted that the objection with respect to non disclosure of the other properties by the petitioners has neither been taken in the pleadings nor it was ever raised before the courts below. However, he submitted that this point goes to the root of the case and therefore, petitioners should be permitted to raise this point. Learned counsel has read over the statement of Sandeep Sharma who has admitted that family of the landlady is living in the accommodation which is on the back side of the shop and Sandeep Sharma also has a residential house at Model Town. He submitted that since these properties have not been disclosed, therefore, the petition is liable to be accepted and the judgments passed by the courts below are liable to be set aside.

The premises in possession of the petitioners is a shop. The properties which have been disclosed are residential in nature. There is no evidence available on the file to prove that the premises which are residential in nature can be used equally effectively for commercial purpose. In these circumstances, this court is of the opinion that non-disclosure of details of the other properties cannot result in dismissal of the eviction proceedings. Still further Sandeep Sharma when appeared in evidence has specifically stated that he is unemployed graduate and he neither owns any other shop or commercial accommodation nor he is in possession of the

same.

Next argument of learned counsel is that the landlady has failed to prove her ownership. It is the case of the landlady that the property was originally owned by her father i.e. Diwan Chand and from him property had come to her. On the other hand, it is the case of the tenants that the shop in question was let out by Ms. Deepa Rani wife of Diwan Chand who was mother of the petitioners-landlady. It is also admitted position on the record that Deepa Rani has also died. Hence, even in the absence of any family settlement or Will, petitioners would be one of the co-owner and one co-owner can seek eviction.

In these circumstances, this court does not find any good ground to interfere with the findings of the learned Rent Controller, which have been affirmed by the learned Appellate Authority.

The revision petition is dismissed.

July 12, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No