

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

1. CR No.4811 of 2013 (O&M)
Date of decision : 07.09.2018

Chander Mohan

...Petitioner

Versus

Parveen Kumar

...Respondent

2. CR No.4875 of 2013 (O&M)
Date of decision : 07.09.2018

Chander Mohan

...Petitioner

Versus

Parveen Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.K. Khetarpal, Advocate for the petitioner.

Mr. Palvinder Singh, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

CM No.11166-CII of 2017

This is an application for direction to the respondent-tenant to make the payment of all the arrears of rent from 01.04.2012 onwards alongwith interest @ 8% per annum.

Application is disposed of.

Main cases

It is unfortunate case where neither the Rent Controller nor the Appellate Authority applied their judicial mind while dismissing the petitions for eviction on the ground of personal necessity.

Respondent-tenant is admittedly tenant of two shops bearing Nos.162 and 163. The landlord as well as the tenant are common.

Landlord filed two petitions on the same day seeking eviction from respective shops. These petitions were unfortunately marked to the different Presiding Officers/Rent Controllers and both dismissed the petitions on the ground that the petitions are bad for splitting of the tenancy as the tenant had taken a stand that tenancy of both the shops is common. It is further not in dispute that bona fide requirement as pleaded by the landlord is same in both the petitions i.e. the requirement for a son who has completed his Chartered Accountancy. Two appeals were preferred which were marked to the same Appellate Authority. The Appellate Authority also dismissed the petitions by separate judgments but on the same day without realizing that the Appellate Authority at least should have consolidated the petitions which would have removed the technical objection taken by the tenant.

The Courts are expected to do the substantive justice rather than going into the technicalities.

Keeping in view the facts as noticed above, both the petitions are consolidated and would be treated as one. Once both the petitions are treated as one, the only ground for dismissal of the petitions evaporates.

Keeping in view the aforesaid facts, the cases are remitted back

to the Rent Controller to treat both the petitions as one and re-decide the same within a period of one month from the date of receipt of the certified copy of the order as in both the cases, parties have already led the evidence.

Parties through their counsel are directed to appear before the Rent Controller on 24.09.2018.

The District and Sessions Judge is directed to mark these cases to the senior most Rent Controller with the specific request to dispose of the cases within one month.

In view of the above, both the revision petitions are disposed of.

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

07.09.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No