

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

C.R No. 6584 of 2018
Date of decision : October 01, 2018

Santosh Kumar Goel

..... Petitioner

v.

Harish Chhabra

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Vaibhav Sharma, Advocate
for the petitioner.

Ajay Tewari, J (Oral)

This petition has been filed by the petitioner against the concurrent judgments of the Courts below dismissing a plea for eviction which had been raised by him on the ground of his personal necessity.

In sub para (ii) of paragraph 5 of the ejectment petition, it was mentioned by the petitioner as follows :-

“ ii) That the applicant has settled his only son, Sumit Goel, in his business of Paints, Polish etc, at Barara, District Ambala and now the applicant is out of work and wants to start the said business at Yamuna Nagar, for which the shop in question was purchased by the applicant. As such the shop in question is required by the applicant for his personal necessity, stated above, so the respondent is liable to be ejected from the shop in question.”

However, when the petitioner appeared to give his testimony, he stated that he required the shop in question for the use of his son. His son also came into witness box and testified to that effect. Both the Courts

below held that contradiction in the pleadings and the evidence with regard to necessity of the petitioner raised a doubt as to whether the property was in fact required by him bona fide or not, and dismissed the petition.

Counsel for the petitioner has argued that now there is catena of judgments where even requirement of property by a son has been projected as the requirement of the father.

There is no doubt about this proposition of law but it is not attracted in the present case. Had it been a case where the petitioner had stated in his petition that he required the shop in question for the use of his son, that could be projected as personal necessity but as noticed by the Courts below the case set up in the pleadings was that he required the shop for himself and he specifically stated that he had settled his son at Barara. The inexplicable change in the testimony erodes the case set up by the petitioner. Consequently, finding no merit this petition is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

October 01, 2018
`kk'

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No