

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

CR No.6963 of 2017 (O&M)

Date of Decision: February 14, 2018

Ravi Kumar

...Petitioner

Versus

Chander Prabha and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr.Raj Kumar Kakkar, Advocate for
the petitioner.

HARINDER SINGH SIDHU, J.

This revision petition has been filed by the petitioner-tenant against the orders of the courts below, whereby, the eviction petition filed by the respondents (landlords) has been allowed and the petitioner-tenant has been directed to hand-over vacant possession of the demised shop to the respondents-landlord.

The respondents had filed an ejection petition under Section 13 of the East Punjab Urban Rent Restriction Act in respect of a shop situated at Gali Buta Ram, Ferozepur City. As per the petition, respondent No.1 (herein) was owner of the shop in question and respondent No.2 (herein) was her husband. They alleged that the shop had been given to Mohan Lal Soni (respondent No. 2 in the eviction petition) on a monthly rent of Rs.450/-, but he without the consent of the applicants, sublet the shop to Ravi Kumar (petitioner herein, who was arrayed as respondent No. 2 in the eviction petition). Ravi Kumar was running a chemist shop there under the

name and style of M/s New Soni Medical Hall. They had earlier filed an ejectment petition, which had been dismissed, but a revision against the dismissal was pending in the High Court.

The ejectment was sought on the ground of non-payment of rent from 1.6.2004 and also on the ground that the shop in question was not fit for human habitation. Mohan Lal Soni did not contest the proceedings and was proceeded against ex parte. The petitioner denied the allegation of subletting and stated that he was a tenant in the premises. It was denied that he was in arrears of rent or that the building was unfit for human habitation.

Considering that the fact that the petitioner-tenant had tendered rent to landlord (respondents herein) was admitted, the courts held that the relationship of landlord and tenant between them was proved. Further as the landlord was not able to point out the outstanding arrears of rent, the petition was dismissed on the ground of arrears of rent.

In support of the plea of the landlord that the demised premises is unfit for human habitation, Purshotam Chand, Clerk of Municipal Committee appeared as AW1 and proved the notice issued by the Committee under Section 114 of the Municipal Act, 1911 for removing the building as it was unfit and unsafe. He stated that an application had been submitted by the residents of the locality, whereafter, report from the Junior Engineer was called, who reported that the building may fall at any time. AW2 K.L.Sondhi proved the site plan. Vijay Shanker Sharma, Building Expert was examined as AW4, who proved the photographs, which depicted the condition of the building as being unfit and unsafe. He stated that roof

the terrace of the shop. His report remained un-rebutted on the file. AW7 Narender Kakkar, JE, PWD (B&R) also stated that the building was unsafe and proved his report Ex.PW7/1. The petitioner – tenant could not produce any evidence to rebut the reports, or otherwise make out a case that the building was not unfit and unsafe. The tenant had also admitted that he opens the shop only for two hours. The learned Court thereby concluded that it has been established that the building had become unfit and unsafe for human habitation. Accordingly, it ordered eviction of the petitioner-tenant. The findings have been affirmed by the Learned Appellate Authority.

Learned Counsel for the petitioner-tenant contended that the though the notice for demolition of the building was issued on 19.10.2001, however, no action has been taken by the Municipal Committee to enforce that notice, which itself indicates that the building was actually not unfit and unsafe. With reference to the cross-examination of Narender Kakkar, JE PWD (B&R), he argued that he had admitted that he had not entered the building in question as it was lying locked. The building had been inspected only from the outside. He also admitted that he did not maintain any record about the visit to the building. Accordingly, learned counsel contends that no reliance could be placed on this report.

It is not possible to accept the contentions of learned counsel for the petitioner-tenant.

Merely because the Municipal Authorities have not followed up their notice and taken necessary consequential action, is no ground to conclude that the notice was not based on an actual survey of the building.

stated that he had not entered the building as it was lying locked, he categorically stated that there were many cracks in the walls of the building. He further stated that on oral enquiry, the age of the building had been determined to be 65 years.

Moreover, the photographs of the building, which have not been denied, are self-speaking. The photographs show the condition of the entire building including the shop in question. Part of the building as shown in the photographs AW4/L has fallen down. Photographs Ex.AW4/I and AW4/J as well as Ex.AW4/F and AW4/D show the entire building is about to fall. There are big cracks in the walls. In the light of this it has to be held that it has been fully established that the building is unsafe and unfit for human habitation.

Accordingly, there is no merit in this petition and the same is dismissed.

February 14, 2018

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No