

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CR No.7601 of 2017 (O&M)

Date of Decision : 17.07.2018

Surinder Kumar

..... Petitioner

Versus

Balbir Raj Saini

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mohd. Yousaf, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

This petition has been filed against the concurrent judgments of the Courts below allowing a petition for eviction of the petitioner from the shop in dispute on the ground that the respondent need it to settle his own son.

The plea taken by the respondent was that there was no personal necessity since the son was already employed in Chandigarh. The second plea taken was that one first floor shop had been vacated by the tenant-Anu Jeweller and had been given to Rajiv Mahajan.

Both the Courts below held that merely because the son of the respondent was at that time working at Rs.10,000/- per month in Chandigarh could not lead to the conclusion that he was permanently settled in Chandigarh and would not come back if the shop was vacated. As

regards the shop which was earlier with Anu Jeweller both the Courts held that it was not proved whether that shop was available when the present petition was filed and secondly, that the tenant could not dictate to the landlord that if a first floor shop got vacant he was obliged to settle his son on the first floor shop rather than prosecute the litigation for the ground floor shop.

In my considered opinion, both these reasons have to prevail. A dependent of a landlord who has to be settled can not be expected to wait and starve till such time the premises are vacated. Even as regards the second issue it is well known that a first floor shop can not be taken to be that useful for business purpose as a ground floor shop.

The Courts below have rightly held that the tenant can not dictate to the landlord where he should start the business. Moreover, the Courts below have found that it was not the case of the petitioner that on the date when the petition was filed that shop was available.

In the totality of circumstances, I see no reason to interfere.

Petition stands dismissed.

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

(AJAY TEWARI)
JUDGE

17.07.2018
Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No