

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

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CR No.7898 of 2017 (O & M)
Date of Decision:08.08.2018

Rahees

...Petitioner

Versus

Yogesh Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Jasuja, Advocate
for the petitioner.

ANIL KSHETARPAL, J.(Oral)

Tenant-petitioner is in the revision petition against the order passed by the Rent Controller affirmed by the learned Appellate Authority ordering eviction on the ground of bona fide requirement as petitioner and his brother wants to expand his business and construct a mall/showroom over six shops.

Tenant contested the petition and pleaded that four shops are lying vacant and relationship of landlord-tenant was also denied. Both the Courts on appreciation of evidence have found that the requirement of the petitioner is bona fide.

Learned counsel for the petitioner while drawing attention of the Court to Para 6 of the statement of Yogesh Kumar has submitted that the landlord has stated that if the tenant-petitioner wishes to take on rent any shop out of the four shops lying vacant so that it can be given on rent at Rs.6,000/-, hence submitted that in view of the aforesaid statement, the requirement of the landlord cannot be said to be bona fide.

On careful reading of Para 6 of the affidavit, which was tendered in examination in chief, it is apparent that the landlord has explained that the four shops, which are lying vacant are behind Peer Mazar (Religious place) and it is not possible to do business in the same. He has further clarified that no tenant wishes to take those four shops on rent and in that context, he had offered the respondent to take any of the aforesaid shops on rent at Rs.6,000/- per month. It is not the case of the petitioner that he accepted this offer. Obviously, the landlord is in a dilemma as his four shops, which are lying vacant one not being put any use because of their location. Nobody is interested in taking on lease these four shops and that is why petitioner has filed a petition with a prayer that he wishes to demolish/pull down entire complex and construct a mall/big showroom.

Next argument of learned counsel is with respect to 7th shops, which is occupied by Dr. Abhishek. He submitted that no petition has been preferred against Dr. Abhishek. Learned counsel for the petitioner has read over statement of the landlord and when attention of the landlord was drawn to the aforesaid factual position, he stated clearly that Dr. Abhishek has promised to vacate the premises as and when called upon.

Petitioner-tenant has not examined Dr. Abhishek to counter the statement given by the landlord. Once the landlord has deposed about a fact, it was the duty of the tenant to rebut the aforesaid fact. Dr. Abhishek is a tenant with the petitioner in the adjoining premises. Since Dr. Abhishek has not been examined, no benefit can be drawn by the petitioner.

In view thereof, there is no ground to interfere.

Revision petition is dismissed.

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

08.08.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No