

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

CR No.8338 of 2015 (O&M)
Date of decision : 05.10.2018

Shanti Devi (deceased) through her LRs Sham Sundri

...Petitioner

Versus

Bhatia Parkashan through Shri Tilak Raj Bhatia (deceased) through LRs

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Jain, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Landlady-petitioner is in the revision petition against the order passed by the learned Appellate Authority reversing the order passed by the Rent Controller.

At the outset, it must be mentioned that this petition was filed on 13.10.2015 and thereafter it has been adjourned repeatedly on the request of learned counsel for the petitioner. The eviction was sought on the ground of non-payment of the arrears of rent, building being dilapidated condition, unfit and unsafe for human habitation and material impairment in the value and utility of the building.

The Rent Controller, after noticing that the roof of the shop in question was replaced 10-12 years ago, allowed the petition on the ground that the building is unfit and unsafe for human habitation. The Appellate Authority reversed the finding after noticing the report of the Expert and the

evidence available on the file. The Court noticed that the roof had already been replaced and, therefore, the petition filed by the petitioner-landlady on 05.01.2002 was not a bona fide action. The Appellate Authority has also noticed that the building expert who has been produced does not itself prove that the building is unfit and unsafe for human habitation. Still further, the petition was filed in the year 2002 and more than 16 years have elapsed. No assertion has been made that in 16 years, the condition of the building has further deteriorated or has fallen down.

As regards structural alteration, the Appellate Authority has noticed that the tenant has only affixed the iron shutters in place of wooden door. The Court has found that affixing of iron shutters does not reduce the value and utility of the shop in question. The Court has noticed that the landlady has failed to prove that how the value and utility of the shop in question has been reduced by affixing of iron shutters in place of wooden door.

Hence, there is no ground to interfere.

Revision petition is dismissed.

05.10.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No