

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) Civil Revision No.8047-2014 (O&M)
Date of Order:10.09.2018

Surinder Kumar

..Petitioner

Versus

S.D.Sabha & Gaushala(Regd.)

..Respondent

(2) Civil Revision No.4227-2008(O&M)

Sanatan Dharam Sabha Gaushala

...Petitioner

Versus

Vijay Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.S.Khurana, Advocate,
for the petitioner (in CR No.8047-2014)
for respondents no.1,2,3,5 & 6 (in CR No.4227-2008)

Mr. Sandeep Khunger, Advocate,
for the petitioner (in CR No.4227-2008)
for the respondent (in CR No.8047-2014)

ANIL KSHETARPAL, J(Oral)

This order shall disposed of Civil Revision No.8047 of 2014
and Civil Revision No.4227 of 2008, one filed by the petitioner-tenant and
the other filed by the landlord-tenant.

C.R.No.8047 of 2014

Tenant-petitioner is in the revision petition against the order
passed by the learned Rent Controller, ordering his eviction, affirmed by the
learned Appellate Authority.

Landlord-respondent is a Sanatam Dharam Sabha Gaushala
(Regd.), which claims to be running a Gaushala in Ferozepur City. Eviction

was sought on the ground that number of cows have increased as Municipal Committee does not have any arrangement and all the stray cows caught by the Municipal Committee are also sent to the Gaushala being run by the Landlord. It was further pleaded that the Society does not have sufficient accommodation for its labourers and the increased number of cows.

Petitioner-tenant is in possession of three rooms, a bathroom, latrine, passage and open space apart from varanda on the ground floor, two rooms and terrace on the first floor @ 75/- per month. Petitioner contested the petition on the ground that number of shops have been constructed by the Sabha and there are number of quarters which are lying in the Gaushala premises.

Both the courts after appreciating the evidence have decreed the eviction of the petitioner-tenant.

Learned counsel for the petitioner has submitted that no evidence has been led to prove that the number of cows have increased. He submitted that in absence of the evidence, no order could be passed. He further submitted that it is proved on the file that number of shops have been newly constructed and therefore, the requirement of the landlord is not bonafide.

On the other hand, learned counsel for the landlord has submitted that the tenant when appeared in the witness box has admitted that Municipal Committee has no arrangement for stray cows in Ferozepur City and cows, after being caught by the officials of Municipal Committee are also sent to the aforesaid Gaushala only. He further admitted that the Gaushala is being run from the rental income generated from the shops which have been constructed.

This court has considered the submissions of learned counsel for the parties. It may be noted that there is no dispute that a Gaushala is being run by the Society in Ferozepur City. It is further not in dispute that the Municipal Committee does not have any Gaushala and, therefore, all stray cows which are caught by the Municipal staff are also sent to the Gaushala being maintained by the respondent-Society. Since, it is admitted by the tenant that the Gaushala is not getting any grant-in-aid from the Government, therefore, there is nothing wrong in the Society having made an arrangement for making an arrangement to have regular source of income to maintain the cows which are being kept in the Gaushala.

With regard to second argument, it may be noted that the Society has examined Mr. Jatinder Mehra as AW-1, Harbans Singh and Manjit Singh who have stated that number of cows have increased. The evidence of Jatinder Mehra, Harbans Singh and Manjit Singh has been appreciated by the courts and found reliable. In such circumstances, this court while exercising revisional jurisdiction does not find that such appreciation of evidence by the court was erroneous.

Learned counsel for the tenant-petitioner has submitted that outside the Municipal limits, the Society which manages Gaushala owns more than 20 acres of land, which is being used for agricultural purposes. He further submits that within the Municipal limits, it would not be appropriate to allow Gaushala to operate. However, on being asked, learned counsel for tenant admitted that the Municipal Committee has not issued any notice to close down its Gaushala located in the Municipal limits.

The tenant cannot be permitted to impose his own view point on the need of the landlord. The requirement of the Gaushala is bonafide

and therefore, this court does not find any good ground to interfere.

The revision petition is dismissed.

Civil Revision No.4227 of 2008

In the present revision petition, the same Society has sought eviction of the tenant on the same ground from a premises, which is open courtyard being used for running a dairy farm.

Both the authorities below have drawn adverse inference against the society with regard to their bonafide necessity on the ground that management of the Society has constructed 15 new shops. It has been observed by the authorities below could utilised the space for construction of the 15 shops for accommodating the cows.

In the considered view of this court, the authorities below have erred in drawing adverse inference. It is undisputed that the Gaushala being run by the petitioner-Society is situated within the municipal limits. The Society is not receiving any aid from the Government. Hence, for maintaining the cows, the Society requires some regular source of income. Still further, if a portion of the property has come on the main road and can be utilised for augmenting the income of the Society, the bonafide of the Society could not be doubted. The shops have been constructed only to augment the income as stated by the officials of the Society.

Since, in view of the aforesaid discussion, this court has found that the requirement of the landlord-Society is bonafide, for the aforesaid reasons, this revision petition is also allowed. The orders passed by the authorities below are set aside.

September 10, 2018

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Whether speaking/reasoned

Whether reportable

(ANIL KSHETARPAL)

JUDGE

: Yes/No

: Yes/No