

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

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CR-9071-2017 (O&M)

Date of Decision : 06.02.2018

Ajit Singh (deceased) through LRs and another Petitioners

Versus

Baljinder Singh Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Arun Luthra, Advocate
for the petitioners.

AJAY TEWARI, J. (ORAL)

By this petition the petitioners have challenged the judgment of the appellate authority allowing the appeal filed by the respondent-tenant and thereby dismissing a petition for eviction filed by the petitioners.

The admitted facts are that the shop in dispute had been let out to the respondent by the predecessor-in-interest of the petitioners. After the predecessor-in-interest purchased the property in the year 1998, he filed the instant petition in the year 2006 seeking eviction of the respondent on the ground of material impairment on the value and utility of the building. The grounds those were that the respondent had changed the floor, opened an extra door and made a platform (thara). The petitioners examined AW-1 Amrinder Singh who stated that he had seen the shop in dispute many times and testified to the fact that the respondent had made the above changes.

He further testified that by the opening of the extra door there was only a 9

inch wall between two doors and that pillar was not strong enough to bear the weight of the wall since there was no iron rod in the same. The petitioners also examined AW-3 Harmesh Singh who testified that he was earlier the partner of the respondent and the changes were carried out by the respondent in the year 2006. On this basis of these evidence the rent controller allowed the petition. In appeal the appellate authority discounted the testimony of AW-1 – Amrinder Singh by noticing that AW-1 stated that he did not even know the respondent and came to the conclusion that once Amrinder Singh had admitted so, his testimony could hardly be taken to be credible. As regards the testimony of AW-3 – Harmesh Singh, the appellate authority discarded his testimony also by holding that while AW-3 had claimed to be a partner of the respondent, he had not placed on record the evidence for the same.

Counsel for the petitioners has argued that the approach of the rent controller is correct and that of the appellate authority is wrong. He has further argued that the appellate authority erred in discounting the statements of AW-1 and AW-3.

In my considered opinion, these arguments would not carry the petitioners far. It is not disputed that AW-1 is not a technically qualified person and therefore his opinion that the roof can fall at any time cannot be taken at face value. Had the petitioners examined some Engineer who had given a report after examining the building to the effect that the structure had been weakened, there may have been some ground to interfere but without this evidence it cannot be held that merely by opening a door or by changing the floor or by making a thara, the value of the building has been impaired.

Petition is dismissed.

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

February 06, 2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No