

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

CR No. 3710 of 2016(O&M)

Date of decision: 30.5.2019

Krishan Lal

.....Petitioner

VERSUS

Jitender Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Puja Chopra, Advocate for the petitioner.

Mr. R.D. Gupta, Advocate for the respondent.

REKHA MITTAL, J.

Challenge in the present petition has been directed against concurrent findings recorded by the Courts whereby the petitioner has been evicted from shop bearing No.139, Haryana Motor Market, Ambala City on the ground of bona fide requirement of Prabhjit Singh son of Jitender Singh (respondent herein).

The averments raised in eviction application pertaining to personal necessity of the respondent, read thus:-

“3 (ii) The petitioner requires the premises in question for his own use and occupation and wants to settle his son namely Parabhjeet Singh who is recently married and wants to start his new business in the said premises in question. The premises in question is urgently needed by the petitioner for settling his son who wants to start his business in the said premises in question. The premises in question is most

suitable to the son of the petitioner as the property in question, is quite near to the business which is run by the petitioner of tyre-business as such the respondent is liable to be evicted from the premises in question for the personal necessity of the son of the petitioner.

4. That the petitioner is not occupying any other property in his occupation except two shops in the motor market in which the petitioner is running his business of tyres under the name and style of “PINDI TYRES” alongwith his another son. The petitioner has also not vacated any other commercial premises situated within the Municipal Corporation limits of Ambala City after commencement of East Punjab Control of Rent Act, 1948. The petitioner as well as his son is not occupying any other building in their occupation.

5. That there is a joint property in the name of petitioner and his brother Nanak Singh and Amrik Singh situated in Jagadhri Gate Ambala City in which about 22 shops are in existence, out of these shops, two shops are being used as Garage for parking their cars and one shop is being used for their Generator set and one shop is being used for the office of the petitioner. Rest of the shops are in possession of the different tenants.”

To substantiate his plea in respect of bona fide requirement for use and occupation of shop by Prabhjit, the respondent/landlord examined himself and Prabhjit also appeared in the witness box. They

have reiterated that the shop in question is required for use and occupation by Prabhjit to start his business in the Motor Market, Ambala City where the respondent is in occupation of two shops used for the business under the name of 'Pindi Tyres' carried on by the respondent and his another son.

Counsel for the petitioner has assailed consistent findings recorded by the Courts primarily on two counts. The first submission made by counsel is that Prabhjit Singh, in his cross examination, has admitted that his father is co-owner of certain shops in Baldev Nagar, Ambala City but the respondent has concealed the factum of ownership in respect of the said shops.

Another submission made by counsel is that Prabhjit in his cross examination has stated that his elder brother Manpreet Singh is doing the business of truck and the same contradicts plea of the respondent that another son of respondent is doing business with him (respondent) in Motor Market, Ambala under the name and style of 'Pindi Tyres'. In addition, it is argued that Prabhjit in concluding part of cross examination had stated that at present he is working in Motor Market.

Counsel representing the respondent has supported the orders passed by the Courts with the submission that findings recorded by the Courts do not suffer from material irregularity much less illegality warranting intervention in the exercise of limited revisional jurisdiction. It is argued that even if the respondent is co-owner of certain shops in Baldev Nagar, Ambala, there is nothing on record suggestive of the fact that any of the said shops is in occupation of the respondent. It is further argued that the respondent has raised a categorical plea that Prabhjit wants to start his

business in the shop in question and the same is most suitable to Prabhjit as property in question is near to business of Tyres run by the respondent. It is argued that statement of Prabhjit that he is doing business in Motor Market would not militate against need of Prabhjit. He would submit that till the shop is vacated and Prabhjit starts his business, he is not expected to sit idle and wait for years together without earning livelihood for his family.

I have heard counsel for the parties, perused the paper-book and records.

Section 13 (3) (a) (i) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (in short 'the Act'), relevant in the present context, reads as follows:-

“(3) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession-

(a) in the case of a residential building. if, -

(i) he requires it for his own occupation, is not occupying another residential building in the urban area concerned and has not vacated such building without sufficient cause after the commencement of the 1949 Act in the said urban area;”

Perusal of the aforesaid extract makes it evident that the landlord is required to plead only in respect of his not occupying another building in the urban area concerned and non-vacation of such building without sufficient cause after commencement of the Act. The legislature in its wisdom has not obligated the landlord to state about building(s) owned

by him in the urban area concerned. In this view of the matter, failure of the respondent to disclose about his co-ownership of shops in Baldev Nagar, Ambala City is of no consequence much less to say that he is guilty of concealing material facts more particularly in the circumstances that there is nothing on record suggestive of the fact that he is in possession of any of those shops situated in Baldev Nagar, Ambala City. In this view of the matter, contention raised by counsel for the petitioner with regard to concealment of material facts is patently misconceived and liable to be rejected.

This brings the Court to the second submission based upon certain facts elicited in cross examination of Prabhjit Singh. Prabhjit in the earlier part of cross examination had stated that Manpreet Singh, his brother, is doing business of truck but in the middle of cross examination, he has deposed that they have two shops in Motor Market wherein his father and brother are doing business. There cannot be dispute about settled position in law that testimony of a witness is to be read as a whole. Equally true is that a single sentence in the statement of a witness cannot be read in isolation as the same may lead to miscarriage of justice. As such, petitioner cannot derive any advantage to his contention from aforesaid sentence from testimony of Prabhjit to infer that his brother is not doing business in Motor Market. Similarly, statement of Prabhjit that at present he was doing work in Motor Market would be inconsequential. As has been rightly argued by counsel for the respondent, Prabhjit is not expected to sit idle waiting for eviction of the shop in question and to start his business therein. The statement of Prabhjit that at present he is doing

work in Motor Market neither proves that he is in possession of any property in his own right nor that his requirement for starting business in the shop in question no longer subsists. Analyzed from any angle, I do not find any material irregularity much less illegality in the impugned orders warranting intervention. That being so, order of eviction passed by the Rent Controller and affirmed in appeal is liable to be confirmed and ordered accordingly.

In view of what has been discussed hereinbefore, finding no merit, the petition fails and is accordingly dismissed with costs.

MAY 30, 2019
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no