

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

CR No.6427 of 2016
Date of decision: 23.10.2019

Amit Moudgill

... Petitioner

Versus

Charanjit Sehgal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Aayush Goyal, Advocate, for
Mr. Vishal Aggarwal, Advocate for the petitioner.

ARUN PALLI, J. (Oral)

The eviction petition filed by the petitioner-landlord was dismissed by the Rent Controller on 23.08.2014. And as even the appeal preferred against the said judgment failed and was dismissed on 08.07.2016, he is before this Court in revision.

In brief, the case set out by the petitioner was that shop in question was rented out by petitioner No.2 on behalf of petitioner No.1 to the respondent(s) on 14.05.1994 at a monthly rent of Rs.450/-. The eviction was sought on two grounds: the respondent was in arrears of rent from March, 2008. And petitioner No.1 owned three shops in front of his house, and the total area upon which all the three shops were constructed was around 18'X19'. All these shops were in possession of separate tenants out of which two shops had recently been vacated. In fact, petitioner No.1 was a qualified diploma holder in Computer Science and after removing the intervening walls of these shops, he wanted to utilize the entire space to set

up his own business. Thus, he required the premises for his personal bonafide necessity.

In the written statement filed by the respondents, it was pleaded, *inter alia*, that they had tendered the arrears of rent with interest and costs as assessed by the Court, which was duly accepted by the petitioners. Further, the petitioners had entered into an agreement to sell qua their entire commercial as well as the residential property adjoining and surrounding the shop in dispute. For the petitioners wanted to sell their entire property, including the demised premises, to fetch hefty amount as sale consideration, the petition for ejectment was liable to be dismissed.

Upon consideration of the matter in issue and the evidence on record, both the Courts concurrently concluded that testimonies of RW7 Pavittar Singh and Harbans Singh (RW8) proved that the alleged necessity of the petitioner lacked bonafides and was rather malafide. Pavittar Singh (RW7), Stamp Vendor, proved the execution of the agreement to sell dated 18.12.2009, for, he deposed that he had sold the stamp papers to petitioner No.2 on which the said agreement was scribed, copy whereof was proved on record as Ex.PW8/A. Likewise, Harbans Singh (RW8), who was the proposed vendee, testified in his deposition that he had agreed to purchase the whole property including the demised premises, from Virinder Singh (petitioner No.2). Further, on execution of the agreement Ex.PW8/A, Virinder Singh was paid Rs.43 lacs as earnest money. Despite cross-examination, nothing material could be elicited from the said witness. Even otherwise, the petitioners had not approached the Court with clean hands, for, despite having executed the agreement to sell dated 18.12.2009 and other related documents in relation to the sale of their properties including

the shop in question, they concealed the true position from the Court. In fact, petitioner No.2, while appearing as his own witness (PW2), denied in his cross-examination if any negotiations were in progress qua sale of the demised premises and other property owned by the petitioners. Still further, as per certificate Ex.P3, issued in the name of petitioner, he had completed the diploma in Computer Engineering in December 2001, whereas the eviction petition was filed in February, 2009, i.e. after a period of 7 long years. Nothing was brought on record either to show as to which business or avocation the petitioner, for whose benefit the eviction was being prayed for, was engaged in all these years. Thus, in the circumstances, the only and the inevitable conclusion that could be reached: the alleged need/requirement of the petitioner(s) to occupy the demised premises was a farce and lacked bonafides.

On being pointedly asked, learned counsel for the petitioner could not refer to anything on record to show if the conclusions recorded by both the Courts were either contrary to the record or suffered from any material illegality. No ground is made out to interfere with the concurrent findings recorded by both the Courts.

The petition being devoid of merit is, accordingly, dismissed.

(Arun Palli)
Judge

23.10.2019
Rajan

Whether speaking / reasoned:	YES
Whether Reportable:	NO