

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

**CR No.8283 of 2015 (O&M)
Date of Decision : 12.04.2019**

Gulshan Kumar

.....Petitioner

Versus

Ram Kishan alias Ram Krishan

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Dhirinder Chopra, Advocate
for the petitioner.

Mr. Kul Bhushan Raheja, Advocate
for the respondent.

SUDIP AHLUWALIA, J. (ORAL)

This Revision is directed against the judgment passed by the Appellate Authority, Abohar on 6th October, 2015, vide which eviction of the Petitioner/Tenant from the demised Shop was ordered, by effectively affirming the earlier judgment of the Ld. Rent Controller, Abohar dated 25th October, 2011 in Rent Case No.1-2 of 8th January, 2008. The original eviction had been ordered on two grounds, being firstly that the Petitioner/Tenant had defaulted in payment of rent; and secondly, that the demised Shop was required by the Landlord/Respondent for his own personal use and occupation.

2. Both these findings on question of facts were upheld by the

Appellate Authority although it was observed that eviction on the ground of default could not have been straightaway ordered without granting a liberty to the Petitioner/Tenant to pay up the rental arrears along with the interest. Nevertheless his eviction on the ground of personal necessity of the Landlord was still sustained.

3. The Petitioner is aggrieved that his Application under Order 41 Rule 27 of the CPC for permission to lead certain additional evidence in the form of judgments/orders passed by the Rent Controller in certain other Eviction Applications filed by the Respondent/Landlord was wrongly disallowed. The purpose behind placing of these judgments by way of additional evidence was to make out a case that while taking the plea of *bona fide* personal requirement of the demised premises, the Respondent/Landlord had willfully suppressed the fact that he had received vacant possession of certain other premises in the same building.

4. This Court however finds no merit in the contention raised by the Petitioner. This is so because on perusal of his reply/written statement filed against the Eviction Petition, it is seen that there was no pleading to the effect that there was any willful concealment on the part of the Respondent/Landlord regarding availability of any additional vacant accommodation to him. Clearly in the circumstances, the Petitioner could not have been granted any opportunity to lead

additional evidence on a fact which in any case was beyond his own pleadings, without having taken necessary steps to amend/ update his pleadings by disclosing as to when or how he had come to know about availability of the alternative vacant Shop Rooms.

5. For the aforesaid reasons, this Court finds no substantive merit in the present Revision Petition which is accordingly dismissed. However, considering the financial status of the Petitioner who is stated to be running a small Shop (5x7ft) in the demised premises from where he sells Ayurvedic medicines/products, and also in view of the fact that the contesting parties are closely related to each other, he is granted time till 31st of August, 2019 to peacefully vacate the demised premises, subject to clearing all his outstanding rental dues and admissible interest thereto. During such period no coercive process against him shall be resorted to.

6. This Order shall automatically stand vacated on the designated date i.e. 31st August, 2019

April 12, 2019
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No