

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

CR No. 1797 of 2019 (O&M)
Date of decision: 20.3.2019

Smt. Tarawanti through LRs.

...Petitioners

Versus

Smt. Naval Kishori Vats and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. S.K. Aggarwal, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

1. This revision under Article 227 of the Constitution of India has been filed for setting aside the impugned order dated 2.3.2019 passed by the Rent Controller, Ambala, whereby an application filed by the petitioner for appointment of a Local Commissioner stands dismissed with costs.

2. The facts in brief are that Smt. Naval Kishore Vats and her son —respondents 1 and 2 respectively filed an application under Section 13 of the Haryana Act No. 11 of 1973 for ejectment of the petitioner from Shop No. 4168-69, D.C. Road, Sadar Bazar, Ambala Cantt, inter-alia, on the ground of personal necessity. During the pendency of the proceedings before the Rent Controller, the tenant/petitioner filed an application for appointment of a Local Commissioner to inspect the second floor of the House bearing No. 4466-67, DC Road, Sadar Bazar, Ambala Cantt, which was in possession of the respondents/landlord and to report the existing accommodation in their occupation.

3. The application was contested by the respondents/landlords by way of filing reply. In the reply, it was stated that the site plan has already been placed on the record, which Ex. P.2 and P.3 and Bhupinder Singh RW-1 had already admitted the correctness of the site plan. It was contended that there was no need to appoint a Local Commissioner since the application has been filed only to delay the proceedings. The Rent Controller dismissed the application which has led to the filing of the instant revision.

4. Learned counsel appearing on behalf of the petitioner contends that the Rent Controller has committed an error in dismissing the application since the landlords are in possession of sufficient accommodation as they are running a computer centre in adjacent building No. 4466-67, D.C. Road, Sadar Bazar, Ambala Cantt and even as of now a fresh construction is going on to increase the space which is in their possession and thereby having sufficient accommodation in their occupation the eviction petition would not be maintainable.

5. I have heard learned counsel for the petitioner and find no merit in the argument that has been raised.

6. In a judgment rendered in **Bhajan Singh Versus Avtar Singh Kohlar, 2010 (2) RCR (Rent 2001)**, this Court held that *“it is not understood as to how the measurement of the property, can lead to a conclusion that the need is not bonafide—the measurement of the property can in nowhere advance the case of the petitioners. In any case, it is not permissible in law to the tenants to seek such directions to get the evidence*

in their favour from the court. Hence, in this case also how bonafide need of the landlord can be denied if he raised construction on the second floor of the disputed house which forming part of tenanted premises. It seems that the respondents wants to create evidence in his favour through Court process which is not permissible in eyes of law.”

7. Similarly, in the instant case, the appointment of a Local Commissioner to go on a fishing expedition regarding the number of rooms in the occupation of the landlord on the second floor of the House No. 4466-67, D.C. Road, Sadar Bazar, Ambala Cantt is nothing but an attempt of the petitioner herein to try and create evidence in his favour, which is not permissible. Even otherwise, it is settled law that it is the direction of the court to appoint a Local Commissioner in case there is a dispute that can be settled in that fashion. The Rent Controller has rightly dismissed the application.

8. Consequently, the revision petition is dismissed.

20.3.2019
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No