

CR-4250 of 2019 (O&M)

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

CR-4250 of 2019 (O&M)
Date of decision: 12.07.2019

Sudershna Enterprises and another

.....Petitioners

versus

Rakesh Kumar Aggarwal

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. G.S. Sirphikhi, Advocate,
for the petitioners.

RAMENDRA JAIN, J. (ORAL)

Tenant has preferred this revision against concurrent findings of the Appellate Authority and Rent Controller as well, whereby they have been ordered to vacate the demised shop in a petition filed by respondent-landlord under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short the 'Act').

Learned counsel for the revisionists *inter alia* contends that in view of the admission of respondent that out of two shops under his ownership, including the demised shop, one was got vacated by him during the pendency of the present litigation, which fact was concealed by the respondent-landlord in his ejectment petition, both the Courts below ought to have dismissed eviction petition. The deposition of respondent that he wanted to merge the shop got vacated by him with the demised shop to

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make a big showroom, was beyond pleadings. Therefore, his above plea being beyond pleadings was liable to be rejected. Both the Courts below also failed to appreciate that respondent did not lead any definite evidence qua alleged cessation of the petitioners to occupy demised shop for more than four months without any reasonable cause. It was incumbent upon the respondent-landlord to examine meter reader, who reported that demised shop was lying closed for more than four months. Respondent-landlord instead of examining him, examined AW3 (wrongly mentioned as AW2) namely Ashok Kumar, Revenue Superintendent of the Electricity Corporation, who categorically testified that he never checked the demised premises and the person who had obtained meter reading was still in service.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioners, this Court finds the instant revision completely devoid of any merit for the reasons to follow.

No question of law much less substantial has been raised in this revision.

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioners has not been able to show any such infirmities in the judgments of both the Courts below.

By this time it is well-settled that a tenant cannot dictate his terms to the landlord. In the instant case, respondent-landlord has well-

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proved on record that demised shop is required by him for the business of his son, who was roaming unemployed. As far as cessation to occupy the demised shop of the petitioners is concerned, it is well-proved on the record from the statement of AW3 Ashok Kumar, Revenue Superintendent of the Electricity Corporation that as per original record brought by him, reading in the electricity meter was as under: -

16.03.2002	:	10051 units
16.05.2005	:	10272 units
16.07.2002	:	10530 units
16.09.2002	:	10779 units
16.01.2003	:	11001 units

Thereafter from 18.03.2005 to 19.07.2005 status code of the meter was found locked, which means that shop was lying locked. As per final report, meter reading was 11246 units, which remained same for three billing cycles. Testimony of this witness has gone unrebutted. Since, this witness has testified on the basis of official record, therefore, in the considered opinion of this Court there was no necessity to examine meter reader.

I have gone through the judgment and order of both the authorities below and find no illegality or perversity in the same being completely based on appreciation of evidence on the file.

In view of discussion made above, revision stands dismissed. Since two months' time granted by learned Rent Controller to revisionist to vacate the shop has already expired, therefore, petitioner is directed to vacate the demised shop within 15 days from today, failing which he would

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pay mesne profit @ 20,000/- per month.

July 12, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No