

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-6839-2019 (O&M)

Date of decision: 31.10.2019

Jagdev Singh

..... Petitioner

Versus

Gandhi Memorial College for Women, Faridkot and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Tejinderbir Singh, Advocate for the petitioner.

RAMENDRA JAIN, (ORAL)

Through this revision, petitioner-tenant has assailed judgment dated 04.09.2019 of Appellate Authority, Faridkot, affirming order of the learned Rent Controller dated 08.12.2017, whereby he was directed to vacate the demised shop within two months.

Briefly, in a petition filed by respondent No. 1-landlord under Section 13 of East Punjab Urban Rent Restriction Act, 1949 (for short-'the Act'), for eviction of petitioner and proforma respondent No. 2, on the basis of *bona fide* necessity to open a gate for students of nursery class, learned Rent Controller, Faridkot, after due notice and holding trial ordered eviction of the petitioner and proforma respondent No. 2 vide order dated 08.12.2017, directing them to vacate the demised shop within two months.

Being aggrieved, petitioner approached the Appellate Court, but remained un-successful.

Learned counsel for the petitioner *inter alia* contends that

respondent No. 1-landlord sought eviction of petitioner only with intention to get the rent increased, otherwise there was no *bona fide* necessity for it to open a gate for nursery students, inasmuch as, there already exists four gates for their egress and ingress. Another adjacent shop got vacated by respondent No. 1, has now been advertised for giving on rent. Both the authorities below have failed to appreciate above factual aspect of the case.

Having given thoughtful consideration to the submissions of learned counsel for the petitioner, this Court finds the instant revision merits dismissal for the reasons to follow:-

This Court, while exercising revisional power, has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond the 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 point out any such infirmity.

The *bona fide* necessity pleaded by respondent No. 1-landlord to get vacated the demised shop is that it wants to open a gate for students of nursery class. It has come in evidence that small children of nursery classes have to pass through a long way for egress and ingress to their classes in the absence of any gate for their easy approach. Both the authorities below, appreciating the evidence and discussing the same in detail, have declared *bona fide* necessity of respondent No. 1-landlord as genuine.

Therefore, bald statement of petitioner that the only intention of respondent No. 1-landlord is to increase rent has rightly been rejected by both the authorities below. There is also no convincing evidence on record

that respondent No. 1-landlord after eviction of adjacent shop to the demised shop had advertised to lease it out and, thus, this plea, without any evidence, has to be rejected outrightly.

I have gone through the judgments of both the authorities below and find no illegally or perversity in the same.

Since, time granted to the petitioner and proforma respondent No. 2 to vacate the demised shop has expired, therefore, they are granted another one week to vacate the demised shop from today, failing which they would be liable to pay *mesne profits* (use and occupation charges) after expiry of one week @ ₹20,000/- per month.

October 31, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No