

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

CR No.7152 of 2019 (O&M)
Date of Decision: 14.11.2019

Ashok Bhalla

.....Petitioner

Versus

Seema

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Surjit Singh Salar, Advocate, for the petitioner.

NIRMALJIT KAUR, J.

The present revision is filed against the impugned orders and judgments dated 12.8.2016 and 17.9.2019 passed by the learned Rent Controller and the learned Appellate Authority, respectively, vide which, the rent petition was allowed.

While praying for setting aside the aforesaid orders, learned counsel for the petitioner-tenant submitted that the said rent petition was filed on the ground of bonafide need of the respondent-land lady for personal residence, whereas, the property in dispute being commercial, it cannot be vacated for the bonafide need of residence. Reliance was placed on the judgment of this High Court rendered in cases of M/s Bharat Electricals through its partner Superinder Kumar and another vs. Dr. Sukhdev Raj Goyal and another, 2012 (2) RCR (Rent) 84, Paramjit Singh vs. Bakhshish Kaur and others, 2010(58) RCR (Civil) 638, State Bank of Patiala vs. S. Zulzuaor Singh Virk and others, 2003(1) RCR (Rent) 670 and Ashok Kumar Jain vs. Lachhman Dass, 1996(2) RCR (Rent) 180.

There is no doubt with the law laid down in the judgments referred by learned counsel for the petitioner-tenant that a commercial building cannot be vacated for the purpose of residence and a residential

property cannot be vacated for the purpose of commercial use. However, the same do not help the petitioner-tenant in the facts of the present case.

The first question is as to whether the present premises in dispute, was commercial or residential. Learned counsel for the petitioner-tenant admitted before this Court that the said property in dispute could be used both for commercial or residential purposes, although, it is being used and let out for commercial purpose. If it is so, then the respondent-land lady has a right to seek vacation of the premises for residential purpose. Admittedly, the respondent-land lady does not have any residential property and is presently residing with her aunt at her mercy. She needs a separate independent residence. Her bonafide need, therefore, cannot be doubted. The argument that there is no kitchen, wash room in the building in question and so, it cannot be used for residential purpose, has been dealt with by the Courts below by holding that the landlord can always get the building renovated or modified as per the needs especially taking into account the admission by learned counsel for the petitioner that the building can be used for residential and commercial purposes.

Thus, the admission by learned counsel for the petitioner-tenant plus the bonafide need of the respondent-land lady, who has no residential house and is presently living with her aunt at her mercy, this Court does not deem it proper to interfere with well reasoned judgments dated 12.8.2016 and 17.9.2019 passed by the Courts below.

Dismissed accordingly.

(NIRMALJIT KAUR)
JUDGE

14.11.2019

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Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No