

CR No. 7291 of 2019 (O&M)

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

CR No. 7291 of 2019 (O&M)

Date of Decision: November 18, 2019

Surinder Kumar

..... Petitioner(s)

Versus

Daropati Devi and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Tarun Jhatta, Advocate
for the petitioner.

LISA GILL, J.(oral)

This petition has been filed challenging order dated 20.09.2019, passed by the learned Civil Judge (Jr. Division), Moga, whereby the application under Order 26 Rule 9 read with Section 151 CPC filed by the petitioner/tenant for appointment of local commissioner has been dismissed.

Learned counsel for the petitioner submits that Ambey Prasad AW-1, Special Power of Attorney Holder of the respondent-landlord Dropdi Devi stated in his cross-examination that he has no objection in case the local commissioner is appointed to verify the actual and factual position of the house at Mori Bazar, Moga. Therefore, the learned Rent Controller has grossly erred in not allowing the application filed by the petitioner-tenant for appointment of a local commissioner.

I have heard learned counsel for the petitioner and have gone through the file.

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It is not in dispute that a petition under Section 13 of the East Punjab Urban Rent Restriction Act was filed by the respondent-landlady seeking ejectment of the petitioner from the demised premises, which is a shop on the ground floor, on the ground of non-payment of arrears of rent as well as personal bonafide necessity. The petitioner-tenant moved an application for appointment of local commissioner, attached as Annexure P3 with this petition, wherein the demised premises are stated to be in dilapidated condition and unfit for habitation. It is stated that AW2 Chaitanya Singhal, grand son of the landlady stated that he had no objection to the appointment of the local commissioner to see the actual factual position of the property in dispute. In order to verify the condition of the premises, which are on the first floor of the shop from where the petitioner's ejectment is sought, appointment of a local commissioner was prayed for.

The learned Rent Controller has dismissed this application while observing that ejectment of the tenant from the shop in dispute is sought on the ground of non-payment of rent, personal necessity and subletting. The premises on the floor above the demised premises, being in a dilapidated condition or otherwise is not in question and is not relevant for the adjudication of the dispute.

Learned counsel for the petitioner argues that a Local Commissioner was sought to be appointed to prove that personal bonafide necessity of the landlord did not exist in as-much-as the premises above the demised shop where the landlady is stated to be residing, are in dilapidated condition. The present petitioner seeks to establish that the landlady was in fact

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not residing on the premises in question. It is thus prayed that this petition be allowed, the impugned order dated 20.09.2019 be set aside and a local commissioner be appointed to ascertain the dilapidated condition of the premises and its unfitness for human habitation. The said argument is devoid of any merit for the reason that it is not for the Court to adduce evidence in favour of any party. The tenant is in occupation of the premises on the ground floor. The tenant needless to say is required to prove his case on the basis of specific evidence and it is for the landlady to establish her personal bonafide necessity on the basis of the evidence, which may be led by her. Appointment of a local commissioner in the given factual matrix is not called and the application has rightly dismissed by the learned Rent Controller.

In my considered opinion, learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in impugned order dated 20.09.2019, passed by the learned Civil Judge (Jr. Division), Moga, which calls for interference by this Court in this civil revision petition.

No other argument has been raised.

Accordingly, this civil revision petition is dismissed with no order as to costs.

Needless to say, there is no expression of opinion on the merits of the case. The observations in this order are confined for the purpose of decision of this petition only.

November 18, 2019

Sunil

**(Lisa Gill)
Judge**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No