

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Civil Revision No.5272 of 2018 (O&M)
Date of Decision:11.02.2019

Ram Niwas

..... Petitioner

VERSUS

Pawan Mehendi Ratta

..... Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Santosh Sharma, Advocate
for the petitioner.

Mr. Sudhir Pruthi, Advocate
for the respondent.

JAISHREE THAKUR, J.

1. The petitioner herein is aggrieved against the order of eviction dated 22.03.2016 passed by the Rent Controller, Hodal as well as the order of the Appellate Authority dated 09.03.2018 dismissing the appeal affirming the eviction of the petitioner herein.

2. In brief the facts are, that the respondent-landlord filed eviction petition of the demised premises in the use and occupation of Ramniwas. It was contended that the rate of rent was ₹ 3,000/- per month exclusive of house tax. Arrears of rent were claimed from 01.09.2013 to 31.10.2014 for a period of 14 months. It was further averred that the shop in dispute was required by the landlord for his own use since he

wanted to start his business of readymade garments in the said shop. It is contended that the shop was suitable for the business of the petitioner since it was situated at old G.T. Road, Hodal, which is a highly commercial area of Hodal town and at that moment the petitioner was operating his business from a temporary small shop on the first floor, which was not conducive for business since customers had to climb a wooden ladder to reach his shop.

3. The petition was contested by filing written statement wherein plea was taken by the petitioner herein that the landlord had not approached the Court with clean hands since the landlord had concealed material facts from the Court that he had another shop which was in his possession and that there was no bona fide requirement for starting his business of readymade garment since he was already doing the same business on the first floor.

4. On the basis of the pleadings of the parties, issues were framed and in order to prove issues, parties led their respective evidence.

5. On appreciating the evidence, both the Courts below came to the conclusion that the landlord required the premises for his own use and occupation since he was already dealing in readymade garments out of a shop on the first floor where the access was by using a wooden ladder. He had purchased the demised premises by registered sale deed No. 3021 dated 30.08.2013 where he wanted to relocate his business. By relying upon several judgments : ***Vinod Kumar vs. Prem Bhalla and others 2012(1) HLR, 296, Narinder Singh Vs. Kamla and another 2011***

(2) RCR 217, Uday Shankar Upadhyay Vs. Naveen Maheshwari 2010 (1) RLR 554, Krishan Lal Sood vs. Sharda Sharma 2008(1) RCR 253, K. Pattaraju vs. A. Hanumegowda 2006(2) RCR 356, Rajinder Parshad and another Vs. Rajinder Kaur, 2011(1) RCR 103, Beant Lal vs. Radhey Sham, 2008(3) RCR 628, Manganlal son Kishaanlal Godha vs. Nanasaheb son of Udhaorao Gadewar 2009(1) RCR 17, M/s Sait Nagjee Purushotam and Co. Ltd. Vimalabai Prabhulal and Others 2005(2) RCR 574 both the Courts below came to hold that the requirement of the respondent herein was bona fide. The plea that he was already doing business of garments in a shop situated on the first floor and did not bonafidely require the premises was negated by holding that it is a prerogative of the landlord to extend his business and choose the location which is most suitable for his business. It was further held that it is not for the tenant to dictate as to where and from which shop landlord should do his business.

6. Aggrieved against the said order, a revision petition came to be filed and at the very outset learned counsel for the petitioner stated that he had instructions that the petitioner would not press the petition on merits and since he has been doing business in the shop in dispute for the last three decades, adequate time be given to him to vacate the premises.

7. Notice of motion was issued and in pursuance thereof appearance has been caused on behalf of the respondent-landlord.

8. Learned counsel for the petitioner prays that he may be

given one year's time to vacate the premises and that he would vacate the same by February, 2020, which is not acceptable to the landlord respondent herein.

9. Learned counsel for the respondent herein prays that the need of the respondent is genuine and bona fide as has been held by the Courts below since his business is suffering on account of non-suitability of the current location and situation of the shop.

10. I have heard learned counsel for the parties and have also perused both the impugned orders, which in no certain terms have upheld the need of premises of the respondent-landlord. It is also taken note of the fact that despite the orders of the Rent Controller to vacate the premises within a period of two months by order dated 22.03.2016 and subsequent order dated 09.03.2018 of the Appellate Authority, the premises is still in the use and occupation of the petitioner herein. By the impugned order of the Appellate Authority he was given four months' time to hand over the vacation possession, which he failed to do and instead filed this revision petition and did not press this petition till November, 2018. Having already availed of sufficient period of time to vacate the premises, this Court finds no ground to give more time to vacate the premises.

Dismissed.

11.02.2019

Satyawan

Whether speaking/reasoned

Whether reportable

(JAISHREE THAKUR)
JUDGE

Yes.

No.