

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.2382-2018 (O&M)

Date of order: 08.01.2020

Davinder Kumar Bajaj

...Petitioner

Versus

Subhash Chand Saini

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Divanshu Jain, Advocate, for the petitioner.

Mr. J.S.Dadwal, Advocate, for the respondent.

ANIL KSHETARPAL, J.(ORAL)

Petitioner-landlord has filed this present petition against the judgment passed by the Appellate Authority reversing the eviction order passed by the Rent Controller.

The eviction was sought by the landlord on the ground of bonafide personal necessity. Appellate Authority has primarily accepted the appeal on the ground that the landlord failed to plead in the eviction petition filed by him the two necessary ingredients out of three, i.e. that he is not in occupation of any other similar property and has not vacated such property after the commencement of the Act without any sufficient cause.

Learned counsel for the petitioner has pointed out that no doubt the landlord has erred but the petitioner had pleaded that he has no other business place in Chandigarh and in the written statement tenant had pleaded that petitioner-landlord is a property dealer.

He further submitted that before the Rent Controller, tenant never objected to the maintainability of the petition on this technical ground. He submitted that for the first time before the Appellate Authority, the counsel representing the tenant, at the time of arguments questioned the maintainability of

the ejectment petition, which was accepted by the Appellate Authority. He submitted at least the Appellate Authority ought to have granted an opportunity to the petitioner to amend his petition.

On the other hand, learned counsel for the respondent has submitted that the Appellate Authority has also taken into consideration the other ground while accepting the appeal i.e. concealment of fact, i.e., the petitioner was working as a property dealer.

Be that as it may. In the considered view of this Court, in the facts of this case, the Appellate Authority committed an error in not granting an opportunity to the tenant-petitioner to amend his pleadings. The courts are here to do substantive justice between the parties and avoid decisions on technicalities. In such situation, the Appellate Authority ought to have considered the aspect of granting opportunity to the landlord for moving an application to amend the pleadings. Reference in this regard may be made to the judgment passed by the Court in the case of **Mohan Lal vs. Rakesh Kumar Bhadoo and another, 2006(2) R.C.R.(Rent) 209.**

Keeping in view the aforesaid facts, present revision petition is allowed and the judgment passed by the Appellate Authority is set aside. Case is remitted back to the Appellate Authority to re-decide the appeal within a period of 4 months after permitting the petitioner-landlord to file an amended petition, so as to incorporate the necessary ingredients as provided in Section 13 (3) (a) (i) of the East Punjab Urban Rent Restriction Act, 1949.

Parties through their counsels are directed to appear before the Appellate Authority, on 20.01.2020.

January 08, 2020
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(ANIL KSHETARPAL)
JUDGE

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