

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

CR-4305-2005 (O&M)
Date of decision : 07.01.2020

Baldev Krishan

...Petitioner

Versus

The Dhuri Cooperative-cum-Processing Society Ltd.

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Akash Singla, Advocate for the petitioner.

Mr. Karan Gupta, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

CM No.16668-CII of 2005

For the reasons stated in the application, which is duly supported by an affidavit, delay of 6 days in refiling the present revision petition is condoned.

Application is allowed.

Main case

Tenant-petitioner has filed this revision petition against the order of eviction passed by the learned Rent Controller which has been affirmed in appeal by the Appellate Authority. The eviction has been ordered on the ground that the tenant-petitioner has ceased to occupy the tenanted premises continuously for a period of 4 months prior to the filing of the petition without reasonable cause.

Both the Courts have found that the petitioner was initially running a business of auto spares parts and he had shifted that business to the another premises. Tenant in his evidence has taken a stand that after shifting of business of auto spares parts, he had started dealing in pesticides etc.

The Courts below, on appreciation of evidence, have found that all the invoices produced by the tenant are of the period after filing of the ejectment petition and no evidence has been produced by the tenant to prove that he was running the business of pesticides from the premises in dispute prior to the filing of the ejectment petition.

This Court has called upon the counsel for the petitioner to produce the copy of the licence to run the business of pesticides, which he frankly admitted does not exist.

Learned counsel for the petitioner has submitted that the pleadings in the present case with regard to cease to occupy are not appropriate and, therefore, the Court has erred in decreeing the eviction petition. He submitted that as per Section 13(2)(v) of the East Punjab Urban Rent Restriction Act, 1949, it is required to be pleaded by the landlord that the tenant has ceased to occupy the building for continuous period of 4 months without reasonable cause. He submitted that in the present case what has been pleaded is that the shop in dispute is lying locked since 01.07.1999 whereas the eviction petition was filed on 22.03.2001. Hence, he submits that the pleadings are not in consonance with the requirement of the Act.

This Court has considered the submissions, however, finds no substance therein. Para 4 of the eviction petition is extracted as under:-

“4. That the respondent has shifted his business from the shop in dispute to another shop of the petitioner since 1.7.99 and the shop in dispute is lying locked continuously and no business is being conducted by the respondent in the shop in dispute, therefore, also the respondent is liable to be evicted from the shop in dispute.”

From the phraseology used in the petition, it is apparent that the shop in question is pleaded to have been lying locked continuously and no business is being conducted by the tenant from the shop in question since 01.07.1999. Period from 01.07.1999 obviously includes continuous period of 4 months prior to the date of filing of the eviction petition.

The pleadings have to be precise and are required to convey what is sought to be pleaded. The pleadings are not required to be reproduction of the words used in the statute. In the present case, landlord has pleaded that after shifting of the auto spare business previously run by the tenant, the shop is continuously lying locked and no business is being conducted since 01.07.1999.

In the considered view of this Court, the pleadings are in accordance with the intent of the statute. Hence, no ground to interfere.

Accordingly, the present petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

07.01.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No