

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-526-2016(O&M)

Date of decision: 17.01.2020

Kalu Ram

.....Petitioner

Versus

Harsimran Kaur and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Gurminder Singh, Sr. Advocate with
Mr. J.S.Gill, Advocate for the petitioner

Mr. Vijay Sharma, Advocate for respondents

ANIL KSHETARPAL, J. (ORAL)

Tenant-petitioner has filed the present revision petition against concurrent finding of fact arrived by the learned Rent Controller as well as by the Appellate Authority, ordering his eviction from the tenanted premises i.e shop on the ground of bona fide personal requirement of the landlords (mother and her son).

Landlords have filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, seeking eviction of the tenant from the rented premises, which can be conveniently referred to as shop Nos. 2 and 3 as depicted in the lay out plan Ex. P-3. It is the case of the landlords that they are running confectionery business from a smaller premises i.e shop No. 1 which is only having front of 6 feet on the main road whereas depth of shop is also only 8 feet. They want to expand their business. The premises in possession of the tenant is having front of 16.3 feet on the main road and much larger depth. Tenant contested the

petition by pleading that landlords have concealed the fact that they are in possession of one more shop. In evidence the tenant produced certain photographs to prove that there is a shop in the side lane, covered by an iron shutter.

On appreciation of evidence the Courts have found that existence of the shop in the bye lane is not proved. Therefore, the eviction was ordered.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Courts below and the record. Learned senior counsel appearing for the petitioner-tenant while referring to photographs “Annexures A-1 and A-2” submitted that the existence of the shop is clear in Annexure A-1, having a yellow shutter with inscription 'Astrology Centre'. While referring to Annexure A-2, he has submitted that the aforesaid shutter has now been removed and in its place a small window has been put. He submitted that an effort is being made to conceal the facts.

On the other hand, learned counsel for the landlords has submitted that previously the premises, which is being referred to by the learned counsel for the petitioner was given on rent to an Astrologer. However, since it was in bye lane, therefore, vacated by the tenant. Therefore, it is being used as a garage. He further submitted that subsequently even garage has been closed and the aforesaid premises has been merged in the residential house.

On a pointed question from the Court, learned senior counsel could not draw attention of the Court to evidence to prove that on the

day, the eviction petition was filed, the alleged shop or room in the bye lane was being used as a shop. A look at Ex. P-3 establishes that the alleged premise is located in the bye lane. In absence of any evidence that the aforesaid premises was in fact a shop on the day the petition was filed, the landlords cannot be held guilty of concealment of facts. The Court is to examine as to whether on the day an eviction petition was filed, there was any concealment or not.

Keeping in view the aforesaid facts, this Court finds that the finding of fact arrived at by the Courts below that there is no concealment of fact is required to be affirmed. Hence, no ground to interfere is made out.

Dismissed.

17.01.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No