

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7287-2015(O&M)
Date of decision: 12.02.2020

Mohammad Yasin

.....Petitioner

Versus

Mohammad Bashir

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. G.S.Bhatia, Advocate for the petitioner

Mr. Mohd. Yusuf, Advocate for the respondent

ANIL KSHETARPAL, J.

The tenant has filed the present revision petition against the order passed by learned Rent Controller ordering eviction, which has been affirmed in appeal. The eviction of the tenant has been ordered on the bona fide requirement of the landlord.

This Court has heard learned counsel for the parties and with their able assistance has gone through the judgment passed by the learned Rent Controller and affirmed in appeal by the learned Appellate Authority and the requisitioned record.

Learned counsel for the petitioner submitted that the landlord had also filed another petition for seeking eviction of another tenant i.e Abdul Latif. The aforesaid petition was allowed on 20.12.2012 and the possession of the tenanted premises in possession of Abdul Latif had already been taken over by the respondent-landlord. He, hence, submits

that the bona fide requirement of the landlord has come to an end. He further submitted that the respondent-landlord has taken a different stand in the petitions filed against Abdul Latif and the petitioner concerning the purpose for which the premises are required. He submits that in the present case, landlord has pleaded that he is working as a Rikshaw puller whereas in the petition filed against Abdul Latif it has been claimed that he is a fruit vendor. He further submitted that the landlord is illiterate and had thumb marked the affidavit filed in lieu of examination in chief. He submitted that such an affidavit could not be read in evidence.

On the other hand, learned counsel for the respondent-landlord has drawn attention of the Court to the petition filed against Abdul Latif, R-W1/B. He submitted that the petition against Abdul Latif was filed by respondent-landlord alongwith three others. He further submitted that in the aforesaid eviction petition filed against Abdul Latif, the petitioner has pleaded that he is selling fruits and vegetables on a Rehri(cart). He submitted that there is no contradiction in the stand of the landlord because the 'Rehri' (cart) is also a modified version of Rikshaw. He further submitted that tenant-petitioner never objected to the affidavit submitted by the landlord before the Courts below on the ground that since it is thumb marked, therefore, it has to be in local language.

This Court has considered the submission.

On careful reading of the petition filed against Abdul Latif (another tenant) it is apparent that the aforesaid joint petition was filed by three brothers and widow of the fourth brother. The aforesaid petition was with respect to a room and not shop. It was pleaded in the aforesaid

petition filed against Abdul Latif that the tenanted premises i.e room is required for storing fruits and vegetables as petitioner no. 1 and 2 in the aforesaid petition sell fruits and vegetables on Rehri (cart) in the city. Whereas the present petition has been filed with respect to a shop i.e the non-residential building so that the petitioner can run his business from the shop rather than by selling fruits and vegetables on a Rehri. In these circumstances, the requirement of the landlord cannot be said to have come to an end merely because another room has become available. There is no evidence on the file to prove that the aforesaid room was being used for running a shop. Still further the aforesaid room belongs to four persons.

Next argument of the learned counsel for the petitioner also does not have substance because there is no contradiction in the pleadings of the landlord in the petitions filed against Abdul Latif and the petitioner. It has been rightly contended by learned counsel for the respondent that in the petition filed against Abdul Latif it has been asserted that the landlord is in the business of selling of fruits and vegetables on a Rehri (cart). (A fruits and vegetables vendor sells his fruits and vegetables by going to various places in the city rather than having a fixed place to conduct his business). In the present petition, landlord has pleaded that he is a Rikshaw puller. Rehri is also a species of Rikshaw only.

As regards the last argument of the learned counsel for the petitioner, it may be noted that since petitioner has not drawn attention of the Court of Rent Controller or the Appellate Authority on this aspect.

This Court while exercising revisional jurisdiction is not inclined to permit the petitioner to contend a new point. While hearing revision petition the Court has to examine the validity and the correctness of the orders passed on the basis of arguments raised by the respective parties before the Court below.

Hence, the present petition is hereby dismissed.

12.02.2020**(ANIL KSHETARPAL)**

rekha

JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No