

CR-8175-2018(O&M) 1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-8175-2018(O&M)
Date of decision: 20.01.2020

Arun Kumar

.....Petitioner

Versus

Mukesh Chand @ Mukesh Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Ajay Jain, Advocate for the petitioner
Mr. O.P.Goyal, Sr. Advocate with
Mr. S.K.Sharma, Advocate for the respondents
Ms.Surabhi Kaushik, Advocate, Local Commissioner

ANIL KSHETARPAL, J. (ORAL)

Tenant-petitioner has filed revision petition against order passed by learned Rent Controller ordering his eviction on the grounds of bona fide requirement of the landlord as well as building having become unfit and unsafe for human habitation. The order of eviction has been affirmed in appeal by the learned appellate authority.

On 23.5.2019 after noticing the contention of the learned counsel for the petitioner following order was passed:-

“Sh. O.P.Goyal, Sr. Advocate with Ms. Deepshikha, Advocate puts in appearance and have also placed on record photographs which have been marked as Annexure R-1/3 and R-1/4 showing the

current status of the building which is stated to have been demolished on account of a notice received from the Municipal Committee. In the said photographs the said portion is marked as (2) whereas the demised shop in dispute is marked as (1).

Inter alia, arguments that have been raised by the counsel for the petitioner are that M/s Jindal Trading Company is functioning by using the area marked as (2) in the photograph as a godown which is an adjoining shop to the disputed premises. Mr. O.P.Goyal, Sr. Advocate on the other hand contends that the photographs itself reflect that the adjoining shop is not being used as a godown and that the roof has fallen.

To settle the dispute it would be expedient to appoint a Local Commissioner to visit the premises at Narnaul. Ms. Surbhi Kaushik, Advocate present in the Court accepts her appointment as Local Commissioner. She submits that she will visit the area on 9.6.2019 at about 2:00 P.M.

The Local Commissioner is directed to take photographs of the current status of both the shops i.e the one in dispute and the adjoining shop and submit a status report regarding whether the adjoining shop is being used as a godown by M/s Jindal Trading

Company. She is also directed to report whether the roof of the adjoining shop is intact or has fallen down/partly fallen down. She is also to report whether the photographs that have been relied upon by the respondent depict the correct position as stated or whether it is the photographs that have been produced in Court today by the petitioner. Mr. Ajay Jain, Advocate has furnished photographs in Court today which are marked as Annexure B, C, D & E.

Advance notice of the visit of the Local Commissioner is hereby dispensed with keeping in mind that parties are being represented through their counsel. Let the report of the Local Commissioner alongwith photographs be furnished on 27.7.2019.

The Registry is directed to detach Annexure R1/3 and R1/4 from the Court file and hand it over to the Local Commissioner as well as photographs reflected as Annexure-R1/4, R1/5 and mark B, C, D and E who would then return the same after inspection.

Status quo as it exists today be maintained. The Local Commissioner's fee assessed at Rs.33,000/- alongwith travelling expenses. The fee to be paid 03 days in advance. The Local Commissioner's contact details are as below:-

Ms. Surabhi Kaushik, Advocate
(P-3179/2016)
1630, Sector 44-B (9501698337)
Chandigarh.”

Local Commissioner appointed by this Court has submitted a detailed report alongwith photographs. It is apparent from a bare look at the aforesaid photographs that major portion of the roof of the adjoining shop has already fallen. From the photographs it is also apparent that roof between the shop in possession of the petitioner as well as adjoining shop is common. Still further, the Courts below have relied upon report of building expert opining that the building is unfit and unsafe for human habitation.

Keeping in view the aforesaid facts, no ground to interfere is made out.

Hence, dismissed.

20.01.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No