

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

CR-8214-2018 (O&M)
Date of decision : 27.02.2020

Manjit Singh Bharowal

...Petitioner

Versus

Anokh Singh Sekhon and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aditya Jain, Advocate for
Mr. Piyush Kant Jain, Advocate for the petitioner.

Mr. Jaswinder Singh, Advocate and
Mr. Bhupinder Singh, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

The tenant-petitioner has filed the present revision petition against the order passed by the Appellate Authority, evicting the tenant on the ground that he has sublet the premises without permission of the landlord.

In order to establish that fact and to carry out the local investigation, learned Rent Controller appointed a Local Commissioner, a practicing Advocate PW2 Kin Bhalla. He after visiting the premises on 18.11.2010, reported that sub-tenant Raj Kumar was in possession of the property wherein he was running his business of clothes/fabrics. Sh. Kin Bhalla has proved that report while appearing in evidence. The petitioner-tenant apart from producing his own account books, did not produce any invoice of sale or purchase of the fabrics/clothes although he claims that he is dealing into trading in the fabrics/clothes. The learned Appellate Authority, has taken a reasonable view, on appreciation of evidence.

Learned counsel for the petitioner contends that the onus did not shift on the tenant to prove that he is in possession. He submitted that the

landlord has failed to prove that in what capacity Raj Kumar, the alleged sub-tenant is in possession.

This Court has considered the submissions.

In a civil proceedings, onus keeps on shifting. It is never static. The landlord filed a petition by alleging that the petitioner has sublet the premises and parted with possession in favour of Raj Kumar. He appeared in evidence and supported that fact. The aforesaid evidence was corroborated by the report of Local Commissioner and his evidence. Thus, the initial onus stood discharged and hence shifted on the tenant to prove that he is actually conducting the business from the tenanted premises. In the present case, he has failed to prove the same.

It is not in dispute that when the Local Commissioner visited the premises on the directions of the Court on a working day, Raj Kumar was found to be in possession of the property. When Local Commissioner asked about Manjit Singh, the petitioner herein, he was told by the sub-tenant that Manjit Singh comes to the shop rarely.

In these circumstances, it was for the petitioner-Manjit Singh to prove that in what capacity Raj Kumar is in possession of the shop.

Keeping in view the aforesaid facts, this Court does not find any error of jurisdiction or law in the judgment of the Appellate Authority.

Accordingly, the present revision petition is dismissed.

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

27.02.2020

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No