

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3558-2019(O&M)

Date of decision 26.02.2021

Hazari Lal and others

.....Petitioners

Versus

Padam Sain and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Akash Singla, Advocate for the petitioners

Mr.Arun Singla, Advocate for the respondents

ANIL KSHETARPAL, J.

The tenants-petitioners have assailed the correctness of the order of eviction passed against them by both the Courts below while invoking the revisional jurisdiction of the Court by filing petition under Section 15 (6) of Haryana Urban Control of (Rent and Eviction) Act, 1973.

Originally, Mithan Lal, the predecessor-in-interest of the respondents was owner of the shop. He let out the same to Shishu, predecessor-in-interest of the petitioners. As many as four sons and two grandsons of Mithan Lal filed a petition seeking eviction of the petitioners. The eviction was sought on the ground of non-payment as well as bona fide necessity of Mithan Lal's grandsons Rakesh and Sumit. In the petition, the petitioners disclosed that they are owners of two other shops; one located at Bhagat Singh Market, Bhiwani Road

whereas second on Rohtak Road. It was further pleaded that in the shop available at Rohtak Road, business of general merchandise was started, however, remained unsuccessful, therefore, closed down. It was claimed that the shop in question is required for bona fide necessity for running the business of general merchandise.

The tenants contested the petition while taking the stand that the landlords are owners of various other properties. After framing of the issues, the parties were allowed to lead evidence and on appreciation of evidence, both the courts as noticed above, ordered eviction.

This Court has heard learned counsel for the parties at length and with their able assistance perused the paper book as well as record of the court below, which has been requisitioned. Learned counsel for the petitioners contends that Sumit son of Subhash Chand is now settled at Gurugram and therefore, he cannot be expected to come to Jind and start his business. He further contends that the landlords are also owners of two adjoining shops to the tenanted premises and therefore, the courts have erred in ordering eviction.

It may be noted here that Sumit has appeared in evidence and deposed that he requires the premises for his own use alongwith his cousin Rakesh who has also deposed in evidence and reiterated the same. Merely because, now the family of Sumit is residing in Gurugram is not sufficient to doubt on his intention to start business in Jind. Keeping in view the facts of the case, there is hardly any scope to doubt the bona fide requirement of the landlords.

As regards, second argument, it may be noted that it has

come in evidence that in fact adjoining the tenant premises there is only one shop owned and possessed by the landlords from where two sons of Mithan Lal are doing their business of general merchandise. In fact, Mithan Lal has left behind four sons. It has also come on record that the adjoining premises are not two shops but a single shop having two separate shutters (Openings). It has also come on record that from one opening, retail general merchandise is sold whereas from the second opening the whole sale business is conducted. Apart therefrom, there is another shop at Bhagat Singh Market which is in possession of the Azad Bansal and Ramesh Bansal two sons of Mithan Lal who are running trading in the batteries. RW 2 Madan Lal who has appeared for the tenants has admitted that attempt was made to run the business of general merchandise from the shop located at Rohtak Road but had to be shut down.

The scope of jurisdiction while hearing revision petition against the order of eviction is limited. In absence of perversity or substantive error, the court does not have jurisdiction to interfere. Reliance can be placed on 5 judges bench in M/s Hindustan Petroleum Vs. Dilbahar Singh (2014)9 SCC 78. Keeping in view the aforesaid facts, there is no ground to interfere.

Hence, dismissed.

26.02.2021

rekha

Whether speaking/reasoned

Whether Reportable

Yes /No

Yes / No

(ANIL KSHETARPAL)
JUDGE