

**107+131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-3556-2016 (O&M)

Date of decision: 01.08.2022

Rameshwar Dass Gupta (since deceased) through his Lrs and others

....Petitioners

Versus

Gurudutt Gupta

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pritam Singh Saini, Advocate for the petitioners

Mr. Ashwani Talwar,
Mr. Varun Sharma and
Mr. Nikhil Sehrawat, Advocates for the respondent

ANIL KSHETARPAL, J (Oral)

1. The petitioners herein are the tenants, who have been ordered to be evicted by the Rent Controller as well as the Appellate Authority. Both the authorities have held that the requirement of the landlord is bonafide.

2. Some facts are required to be noticed. There are two adjoining shops located in Jain Market at Thanesar. One of those shops was owned by Sh.Gian Chand, which was sold to the respondent-landlord in 2003. The second shop owned by Sh.Vinod Kumar s/o Sh.Gian Chand was in possession of the landlord's father as a tenant. Undisputedly, the respondent's father is running the business of general merchandise under the name of Gupta Traders. Ultimately, the respondent has also purchased the shop in possession of his father from Sh.Vinod Kumar in 2013. The respondent filed a petition claiming that he wants to expand his business by removing the partition wall. When

he appeared in evidence, he disclosed all these facts to the court. While facing the cross examination, he stated that he is working as an employee in the Firm of his father. In one sentence of his deposition, he stated that he does not want to work in the shop purchased from Vinod Kumar.

3. As already noticed, both the authorities have ordered eviction of the petitioner.

4. The learned counsel representing the petitioners contends that the appellate authority has failed to decide the application for permission to lead additional evidence. He submits that the tenant wants to produce the judgment of acquittal passed by the criminal court. He further contends that the respondent has contradicted himself because in the pleadings he claims eviction on the ground that he wants to expand his business whereas in the evidence he has deposed that he is working under his father in his Firm as an employee.

5. Per contra, learned counsel representing the respondent submits that respondent is the only son of his father and for the purpose of filing a tax return, he may have been drawing some salary from the Firm. He submits that the respondent is working alongwith his father in an adjoining shop and he wishes to expand his business.

6. This Court has evaluated and analyzed the arguments of the learned counsels representing both the parties. As regards failure of the appellate authority to decide the application for additional evidence, it may be noted that this Court has heard the learned counsel representing

the petitioners and considered the application for leading the additional evidence. Also the judgment of acquittal passed by the court in a criminal case would have no bearing in the present case. The criminal case was registered against the tenant when he obstructed the respondent from constructing first floor of the property purchased by the respondent from Gian Chand in the year 2003.

7. As regards argument of the learned counsel that there is contradiction, it may be noted that the respondent while filing a petition has claimed that he wants to expand his business. The aforesaid pleadings were corroborated by the evidence during the cross examination. The respondent has stated that he is working as an employee under his father in his firm, but it would not necessarily lead to a conclusion that the respondent does not need the premises. The respondent may be drawing salary from the Firm owned by his father but that would not itself be sufficient to hold that the respondent does not have a bonafide requirement.

8. As regards the statement of the respondent that he does not wish to do the business in the shop, which was purchased by him from Sh.Vinod Kumar, it may be noted that the respondent purchased the adjoining shop from Sh.Vinod Kumar and not the shop in dispute. In any case, one sentence in the cross examination cannot be read in isolation of the entire deposition of the witness. In order to arrive at a conclusion, the court is required to examine the entire statement made by the witness. The respondent has specifically stated that he needs the

premises for his bonafide requirement and personal necessity.

9. Hence, no ground to interfere is made out.

10. Dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

01.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE