

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4418 of 2013 (O&M)
Date of decision:16.05.2022

Samir Dawar and another

...Petitioners

Versus

Mr. Roshan Puri and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kunal Mulwani, Advocate
for the petitioners.

Mr. Onkar Singh Batalvi, Advocate and
Mr. Tarun Aggarwal, Advocate
for the respondents.

ANIL KSHETARPAL, J (Oral)

The tenant assails the correctness of the order passed by the Appellate Authority while ordering his eviction on the ground that the tenanted premises has become unfit and unsafe for human habitation and is bonafidely required by Sh. Rajesh Puri.

Some facts are required to be noticed.

Four brothers, namely, Sh. Roshan Puri, Sh. Krishan Puri, Sh. Ashwani Puri and Sh. Rajesh Puri, filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, seeking eviction of the petitioners herein(tenants). The eviction was sought on the various grounds including non-payment of rent, material impairment to the utility of the building, the building being unfit and unsafe for human habitation as well as on the bonafide requirement of Sh. Rajesh Puri, one of the landlords.

The tenant did not dispute their relationship as landlord and the tenant but claims that the various grounds of eviction are not made out.

The Rent Controller dismissed the petition. The learned Appellate Authority on reappreciation of the evidence has recorded findings of fact to the effect that the building has not only become unsafe and unfit for human habitation and can collapse at any time but the same is also required for the bonafide requirement of Sh. Rajesh Puri.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book and the record which was requisitioned.

The learned counsel representing the petitioners (tenants) contends that Sh. Rajesh Puri has not entered into the witness box, therefore, he has failed to prove his bonafide necessity. He further contends that there are two contradictory reports of Building Expert, therefore, the Appellate Authority has erred in relying upon the report of Building Expert examined by the landowners, particularly when he did not enter the tenanted premises. He further contends that the landowners have already sold the commercial property during the pendency of the petition vide sale deeds Ex.R2 and Ex.R3, respectively.

Per contra, the learned counsel representing the respondents contends that the jurisdiction of the High Court while hearing the revision petition is limited and the Court cannot reappreciate the evidence. He relies upon the judgment passed in **Hindustan Petroleum Corporation Ltd. vs. Dilbahar Singh(2014) 9 SCC 78.**

First of all, this Bench proceeds to take up the ground claiming the building having become unfit and unsafe for human habitation.

The petitioner has examined Sh. V.P.Saini, as the Building Expert. In his report, he has stated as under:-

“The structure as a whole lost its life but the shop under dispute due to properly maintained and extra strengthen to first floor increased its life.”

It has come in evidence that the building was already more than 70 years old on the date of filing of the petition. The petition was filed in the year 1997.

Keeping in view the report of Building Expert, examined by the tenant, it is evident that the building has lost its life.

As regards the argument of the learned counsel representing the petitioner with regard to sale of the property vide sale deeds Ex.R2 and Ex.R3, it is evident that those properties were the pieces of land and are in occupation of the other tenants. In such circumstances, the aforesaid properties were not available to the landowners.

The last argument of the learned counsel representing the petitioner is with regard to the non appearance of Sh. Rajesh Puri in evidence. Sh. Krishan Puri has appeared in evidence and stated that Sh. Rajesh Puri does not have any work. The learned counsel representing the tenant could not produce in evidence or suggest to Sh. Krishan Puri that Sh. Rajesh Puri is already doing some business at some premises.

Keeping in view the aforesaid facts and in view of the report submitted by the Building Expert, this Court does not find it appropriate to interfere in the decision made by the Appellate Authority. It may particularly be noted here that the Appellate Authority has extracted the deposition of the petitioner, where he admitted that he is the owner of the various commercial properties.

Hence, no ground to interfere is made out.

Dismissed.

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

May 16, 2022
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(ANIL KSHETARPAL)
JUDGE

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