

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

107

**CR-99 of 2018(O&M)
Date of Order: 23.05.2022**

Hukam Chand

..Petitioner

Versus

Sushma Jindal

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajan Bansal, Advocate, for the petitioner.
Mr. Tushar Sharma, Advocate, for the respondent.

ANIL KSHETARPAL, J(Oral)

The petitioner herein is a tenant. He has been ordered to be evicted from the shop. The landlady claiming to be a widow, filed a petition while assailing that she wants to open a coaching centre. The tenant while contesting asserted that her alleged necessity is not bonafide.

During the pendency of the eviction petition, an another premises were leased out by the landlady in favour of the Aryabhata Institution. While appearing in evidence, the landlady admitted that fact, however, explained that the aforesaid premises are being used for residential purposes. Consequently, the Rent Controller ordered eviction of the tenant.

In the tenant's appeal, the Appellate Authority has failed to take into consideration the aforesaid ground. On a careful reading of the judgment passed by the Appellate Authority, it is evident that the Appellate Authority has failed to examine the effect, if any, of landlady leasing out the another property in favour of Aryabhata Institution. It has also come on record that previously the aforesaid property was rented out in favour of Varindra Agro Chemicals Ltd. of Trident Group Industries.

The learned counsel representing the respondent submits that the property leased out to Aryabhatta Institution is, in fact, a residential property.

Be that as it may. The Appellate Authority being the last Court for appreciation of evidence is required to reappraise the evidence.

Keeping in view the aforesaid facts, the judgment passed by the Appellate Authority is set aside. The matter is remitted back to the Appellate Authority to decide the appeal afresh, within a period of 2 months from the date of receipt of the certified copy of this order.

The parties through their counsels are directed to appear before the Appellate Authority, on 31.05.2022.

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

May 23, 2022

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(ANIL KSHETARPAL)
JUDGE

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