

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-9208 of 2017 (O&M)
Date of decision: 22.09.2022

Ganesh Dass

..Petitioner

Versus

Shashi Sharma through her attorney Satish Chander

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajender Sharma, Advocate,
for the petitioner.

Mr. Shailendra Jain, Sr. Advocate, with
Ms. Ashmita Sandhu, Advocate
for the applicant-respondent.

ANIL KSHETARPAL, J(Oral)

C.M.No.10216-CII-2021

The application for fixing the mesne profits is dismissed as not
pressed.

MAIN

The petitioner herein is a tenant who has been ordered to be
evicted by both the authorities below on the ground of bonafide personal
necessity of landlady's husband.

It is the case of the landlady that her husband works as a
professional Astrologer. He is not keeping well on account of various
diseases, therefore, he cannot continue his business from the first floor.
Hence, she bonafidely requires the premises.

The tenanted premises is a shop on the ground floor. The Rent
Controller as well as the Appellate Authority, after analyzing the oral
evidence of AW1-Raj Kumar, AW2-Baldev Raj, AW3-Arun Kumar, AW4-

Rohit Gupta, AW5-Dinesh Anand, AW6-Amrik Singh, AW6-Satish Chander (attorney of the landlady as well as her husband's brother) found that the landlady has successfully proved her bonafide necessity.

This Bench has heard the learned counsels 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 petitioner contends that the landlady's husband has not stepped into the witness box to prove his necessity. He submits that neither the landlady nor her husband has appeared in evidence, therefore, the bonafide necessity of the landlady or her husband has not been proved.

Per contra, the learned senior counsel representing the respondent submits that AW6-Satish Chander is not only the attorney holder of the landlady but also landlady's husband brother. He submits that it would not be appropriate to draw an adverse inference against the landlady particularly when AW6-Satish Chander has already deposed along with the various other witnesses.

Though, the argument of the learned counsel representing the petitioner seems firm and solid in the first blush, however, on a deeper scrutiny is found without any merit. An adverse inference can only be drawn if the party withholds the best evidence or deliberately refuses to lead evidence which is in his knowledge. If the sufficient evidence is already led, it would not be appropriate for the court to draw an adverse inference. In the present case, Satish Chander is not a stranger to the family. He is living along with his brother. Thus, he is in the knowledge of not only the bonafide requirement but also facts of the case. Apart from that, the tenant-

petitioner while appearing in evidence admitted that it will be difficult for the landlady's husband to climb up the stairs. He also goes on to admit that the landlady's husband has a bonafide requirement.

Hence, no ground to interfere is made out.

Dismissed.

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

September 22, 2022

(ANIL KSHETARPAL)
JUDGE

nt

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>