

2023:PHHC:094742

**104-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-3880-2011 (O&M)
Date of decision: 26.07.2023

Agya Ram

..Petitioner

Versus

Assa Nand Kalra

.Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Gopal Sharma, Advocate for the petitioner
Mr. Ashok Kumar Khubbar, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. The petitioner herein is a tenant in a small portion of the bigger premises owned by the respondent (landlord). The respondent sought his eviction on the grounds of non-payment of rent, bona fide necessity of his son and building required for reconstruction on the ground that it has become unfit and unsafe for human habitation. Though the Rent Controller dismissed the petition, however, the Appellate Authority ordered his ejectment vide order dated 28.02.2011.

2. Learned counsel representing the petitioner has addressed arguments challenging the eviction on two grounds namely personal necessity of the landlord's son as well as the building having become unfit and unsafe for human habitation. However, he has not said even one word as to why the order passed by the Appellate Authority on the ground of non-payment of rent is wrong.

3. It has come on record that in order to prove the bonafide necessity, the landlord and his son have appeared in evidence. The

Appellate Authority has found that the landlord requires the premises for expansion of his son's business after re-construction of the entire building. A civil revision filed by yet another tenant in the same building has been withdrawn.

4. Learned counsel representing the petitioner contends that the landlord has failed to disclose the particulars of his other properties. He submits that the landlord has admitted that he owns two more shops. He further contends that the landlord failed to disclose the necessary particulars of his son. As regards the opinion of the building expert, the learned counsel representing the petitioner contends that the alleged expert is only matriculate and does not possess the required qualifications.

5. On the other hand, the learned counsel representing the respondent has submitted that Sh.Parveen Kalra appeared as PW5 but the learned counsel representing the tenant in his cross-examination did not ask any question with respect to the possession of any other property or about the fact that did he ever vacate any other building without sufficient reasons. Furthermore, it is not the case of the tenant that the landlord's son is the owner of any other building in the concerned urban area. He further contends that the building expert is an approved Architect in the old city and has a sufficient experience in the area. He submits that the tenant has failed to examine any other building expert to prove that the building is safe for human habitation.

6. This Court has considered the submissions made by the learned counsel representing the parties. At the time of argument, learned counsel representing the respondent stated that the tenant no longer occupies the premises as considerable part of the building has already fallen down. To counter this, the learned counsel representing the petitioner has shown the photographs of the tenanted premises sent to him on his mobile. It is evident that the tenanted premises are in a dilapidated condition. Even a grown up Pipal tree is standing on the roof of the premises and the adjoining part of the premises have already fallen down. The roof is constructed of old wooden battens which are bulging downwards. The property in dispute is old and is made with mud. Other tenants have already vacated the said property. It is not in dispute that the tenanted premises are required for the expansion of the landlord's son's business. It has come in evidence that the landlord's sons are selling the products of S.K.N Bentex Group. They have already been informed to arrange for minimum area i.e 2500-3500 sq. feet to construct their showroom/service centre. He is running his business from some portion of the same bigger building, hence, the requirement is qua that building. In such circumstances, the Court is required to examine the allegations of non-disclosure by the landlord. It may be noted here that no suggestion whatsoever was given by the learned counsel representing the tenant to Parveen Kalra with respect to any other property occupied by him or he has ever vacated possession of any other building in the

urban area concerned, without any sufficient reasons. Some suggestions were given to Assa Nand Kalra with respect to the two shops located at distant places. The said shops will not serve the purpose of the landlord's son, who wants to expand business in this building where he is already running his business. The scope of interference in the revision petition is limited in the view of the Five Judge Bench judgment in **Hindustan Petroleum Corporation Limited vs. Dilbahar Singh' (2014) 9 SCC 78.**

7. Hence, dismissed.

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

26.07.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE