

2023:PHHC:115045

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

CR-3513-2012 (O&M)

Date of decision: 01.09.2023

Sadhu Ram

..Petitioner

Versus

Atma Ram

.Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ashish Bansal, Advocate for the petitioner

Mr. Kunal Mulwani, Advocate

Mr. Vikas Thakur, Advocate and

Mr. Ritvik Garg, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. This is an unfortunate litigation which has remained pending in the courts for the last 20 years. Though the landlord succeeded in securing an order of eviction against the tenant (petitioner) in the courts below, however, during the pendency of the present petition, he has sold the property and the said fact is not disputed by the learned counsel representing him. It has also come on record that the subsequent purchaser has filed a fresh petition.

2. In view of the aforesaid development, the personal necessity, if any, of the landlord, ceases to exist as now he cannot be delivered the possession even if the revision petition is to be dismissed. Reliance in this regard can be placed on the Supreme Court judgment passed in **Sheikh Jehangir vs. Smt. S. Kaushilyabai and others 1987 (sup) SCC 630.**

3. The subsequent purchaser has already filed the petition against the petitioner. The eviction was sought on the ground of

bonafide personal necessity of the landlord, which is personal to the landlord.

4. Keeping in view the aforesaid facts, the revision petition is disposed of with the observations that the order of eviction will not be implemented.

5. Learned counsel representing the petitioner also prays for refund of the mense profits for use and occupation of the premises, as ordered by this Court. The request of the petitioner has no substance as the aforesaid amount is payable to the landlord for use and occupation of the premises. Once the petitioner was ordered to be evicted, in view of the judgment passed in **M/s Atma Ram Properties (P) Ltd. vs. M/s Federal Motors Pvt. Ltd. 2005 (1) RCR (Rent) 1**, before an interim order is passed in favour of the tenant, he is liable to pay the mense profits for use and occupation of the property, which is equivalent to the market value of the property. Hence, the landlord is entitled to the amount of such profits till the date he sold the property. The remaining amount shall be remitted to the Rent Controller where the subsequent proceedings are pending.

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

01.09.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE