

²⁶⁷ IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2987-2019 (O&M)
Decided on:-24.08.2023

Dayal Chand

....Petitioner..

VS.

Yoginder Kumar

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Tanmoy Gupta, Advocate,
for the petitioner.

Mr. Johan Kumar, Advocate,
for the respondent.

HARKESH MANUJA J.

1. By way of present revision petition, challenge has been laid to the judgment dated 29.01.2019 passed by the Appellate Authority, Palwal, whereby an appeal filed against the order of eviction dated 23.03.2017 passed by the learned Rent Controller, Palwal, was dismissed, thereby, upholding the same against the petitioner-tenant.

2. In the present case, respondent-landlord filed an eviction petition qua the tenanted premises i.e. shop ABCD, situated at Aligarh Road, *inter alia* on the grounds of non-payment of arrears of rent; the property having become unsafe for human habitation being 30 years old; and the same being required for personal bonafide necessity of his two sons.

3. Upon notice, petitioner-tenant appeared and filed written statement while denying the case set up by the respondent-landlord. It was stated that the respondent-landlord did not approach the Court with clean

hands as there was no bonafide necessity of the landlord and it was mere his wish and desire to get the shop in question vacated and let it out the same to some other person for enhanced rent, besides it, he was having several other shops adjoining the shop in dispute.

4. The learned Rent Controller vide its judgment dated 23.03.2017, allowed the eviction petition filed by respondent-landlord on the ground of personal necessity.

5. Aggrieved thereof, the petitioner-tenant filed first appeal, which was dismissed vide order dated 29.01.2019 passed by the Appellate Authority, Palwal.

6. Impugning the aforesaid judgments, learned counsel for the petitioner-tenant submits that the bonafide necessity for the settlement of respondent's sons was not made out as there was a shop named as 'Aavesh Electricals' which means that his elder son was engaged in business or some work. Besides it, there were other shops of the respondent, which were lying vacant in the very vicinity of the demised premises, thus, the eviction petition was liable to be dismissed.

7. On the other hand, learned counsel for the respondent has supported the judgments passed by the Courts below while submitting that the same are absolutely in accordance with the legal proposition of law applicable to the facts and circumstances of the case in hand and thus, warrant no interference.

8. I have heard learned counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner-tenant.

9. In the present case, respondent-landlord has sufficiently proved the bonafide need of his two sons, aged 24 and 21 years, respectively, being Science Graduate and Commerce Graduate. Even one of the sons, namely, Aavesh has appeared as PW-6 and despite a lengthy cross-examination conducted upon him, petitioner-tenant has not been able to impeach his deposition. Nothing has come out on record to show that either of the two sons of respondent-landlord are gainfully employed. Mere fact that the brother of respondent-landlord is running a shop in the name of "Aavesh Electricals" would not compel this Court to reach a conclusion that the said business is being run by one of the sons, namely, Aavesh, as it has been sufficiently proved on record that the said business is being carried out by the real brother of respondent-landlord, namely, Birender Kumar.

10. Moreover, no evidence at all has been brought on record by the petitioner-tenant to controvert or doubt the genuineness of the relinquishment deed Ex.PW4/4 entered into between the respondent-landlord and his brother, regarding the shops in question. Nonetheless, the execution of relinquishment deed has not been disputed by any of the family members, in the eviction proceedings between respondent-landlord and petitioner-tenant, the motive behind the execution of the said relinquishment deed cannot be allowed to be gone into. In view of the above, genuineness about the bonafide need of the two sons of respondent-landlord has been sufficiently established on record beyond doubt and in the absence of proof of any other suitable premises, petitioner-tenant has no right to dictate his terms to the respondent-landlord by submitting that the sons of respondent-landlord should utilize the open space lying behind the shops in question.

CR-2987-2019 (O&M)

11. In view of the discussion made herein above, finding no illegality or perversity in the concurrent findings recorded by the Courts below, the present petition is, hereby dismissed, upholding the same.

24.08.2023
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(HARKESH MANUJA)
JUDGE

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