

2023:PHHC:164183

**116-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1.CR-3662-2019 (O&M)

Kala @ Arshad Shah and another
....Petitioners
Versus

Mohd. Boota
..Respondent

2.CR-3795-2019 (O&M)

Mohammad Hanif
....Petitioner
Versus

Mohd. Boota
..Respondent

Date of decision: 20.12.2023

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Arun Jindal, Advocate for the petitioner
in CR-3662-2019
Mr. Saqib Ali Khan, Advocate for the petitioner
in CR-3795-2019
Mr.K.B.Raheja, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. By this orders two connected revision petitions i.e. CR-3662-2019 and CR-3795-2019 shall stand disposed of.
2. The petitioner herein is a tenant, who has been ordered to be evicted by the Rent Controller, which in appeal, has been affirmed by the appellate authority.
3. Heard the learned counsel representing the parties at length and with their able assistance perused the paper book alongwith the requisitioned record.

4. Learned counsel representing the petitioners contends that in the year 2012, the original owner, namely, Reham Din received an advance rent for a period of 5 years and, therefore, the petition filed on 27.05.2013 was not maintainable.

5. On the other hand, the learned counsel representing the respondents submits that the original owner, namely, Reham Din had orally made a gift of the property to the respondent, which was subsequently reduced into a writing by executing a memorandum of oral gift dated 09.11.2012. He submits that once Reham Din had gifted the property to the respondents, he had no locus to receive the rent for the same.

6. Be that as it may. The total payment of rent was made for 5 years in the year 2012 which was upto the year 2017. Now, we are in the month of December, end of calendar year 2023. Both the Courts have ordered eviction of the petitioner on the ground that the landlord alongwith his son, namely, Siraj Ali bonafidely require the two adjoining shops for selling the fruits and vegetables.

7. Learned counsel representing the petitioner further contends that the courts have erred in ordering the petitioners' eviction without discussing the merits of the case. He submits that courts have referred to a few judgments passed by the Supreme Court and, thereafter, passed the order.

8. This Court has considered the submissions made by the learned counsel representing the parties.

9. From a careful perusal of the judgment of the First Appellate Court, it is evident that in para 11 of the judgment, the appellate authority has discussed the merits and found that the requirement of the landlord and his son is genuine. Moreover, the scope of interference in the revision petition is limited in view of the judgment passed by the Five Judge Bench of the Supreme Court in **Hindustan Petroleum Corporation Limited vs. Dilbahar Singh' (2014) 9 SCC 78**

10. Keeping in view the aforesaid facts, no ground to interfere is made out.

11. Hence, dismissed.

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

20.12.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE