

2023:PHHC:155583
**144 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-4247-2023 (O&M)
Date of decision: 05.12.2023

Col. Hawa Singh (since deceased) through his LRs

....Petitioner

Versus

Jat Senior Secondary School, Jat College, Hisar and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Anurag Jain, Advocate for the petitioner

ANIL KSHETARPAL, J (Oral)

1. The petitioner herein is a tenant. In a previous litigation, the predecessor of the petitioner entered into a settlement with defendant no.2 namely Jat Senior Second School. It was agreed that the petitioner will vacate the property in his possession and defendant no.2 would construct shop with a size, not less than 35 square yards and hand over the possession to the petitioner. The civil suit was accordingly disposed on 15.04.2014. Thereafter, the petitioner filed a fresh suit for the grant of mandatory injunction. The aforesaid suit was decreed, which was upheld in the first appeal, the second appeal as well as by the Supreme Court. The respondent-Jat Senior Secondary School has now constructed a shop on the property in dispute. The petitioner claims that the aforesaid shop is of an irregular shape as dimensions of all the four sides are

different. It is also contended that the petitioner is getting only 30.87 square yards area.

2. On the other hand, the Executing Court got the shop demarcated. It was reported that the shop has been constructed over the area of 36.06 square yards. Thus, the Executing Court has disposed of the execution petition with the observations that the judgment debtor will hand over the possession to the decree-holder if he is prepared to take the same. The correctness of the aforesaid order has been challenged in this revision petition.

3. Heard the Learned counsel representing the petitioner at length and with his able assistance perused the paperbook.

4. Learned counsel representing the petitioner submits that the shop has been constructed with the following measurements:-

*“East 8’-4/1-2” front side wall with
opening Gate, Rolling, Shutter and
Main Road 44’ wide (PWD B&R)
West: 8’-3” Back side wall and Jat
College open play ground.
North: 33’-7/1-2” Side wall and Jat
College garrage.
South: 33’-0” Side common wall
and Jat College garrage.
Area: 277.88 SFT/30.87 SQYD.”*

5. He also submits that the height of the roof of the shop is varying between 9.2 inches to 9.4 inches.

6. This Court has considered the submissions made by the learned counsel representing the petitioner. As per the settlement arrived at between the parties, the respondent had undertaken to

construct the shop measuring not less than 35 square yards. As per the report of the Local Commissioner, the shop has been constructed over an area of 36.06 square yards. Learned counsel representing the petitioner admits that there is no specific direction for providing a shop of a particular length and breadth. It is evident that the respondent has not only constructed the shop but also offered to hand over its possession to the petitioner. The slight variation in the height can always be adjusted by putting a false ceiling.

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

8. Hence, dismissed.

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

05.12.2023

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE