

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARHCR-44 of 2022 (O&M)
Date of Order:01.03.2024

Rattan Lal

.Petitioner

Versus

Pardeep Kumar Gupta and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aakash Singla, Advocate
for the petitioner.Mr. Vivek Gupta, Advocate
for respondent no.1.ANIL KSHETARPAL, J

1. The petitioner herein is a tenant whose eviction has been ordered by the Rent Controller which in appeal has been affirmed by the Appellate Authority.

2. The petitioner's eviction has been ordered on the ground of the bonafide necessity of the landlord. The correctness of the aforesaid order has been challenged in this revision petition.

3. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

4. The learned counsel representing the petitioner has submitted as under:-

(1) The respondent is the owner of 139 square yard commercial area pursuant to transfer deed executed in his favour on 24.05.2010, which consists of many commercial establishments.

(2) The respondent is already in possession of various shops

and therefore, his necessity is not bonafide.

- (3) The respondent has not filed the petition with clean hands as he is already doing the business of trading in bann as per the income tax record.
- (4) Shop No.21 which belongs to the Public Works Department is also in possession of the respondent.
- (5) The respondent is owner of as many as 8 shops in Kiran Market.

5. On the other hand, the learned counsel representing the respondents submits that 139 square yard area was transferred to the respondent and his brother jointly. He submits that the respondent no.1 is not in possession of any property as the shop depicted on the North of the layout plan 'Ex.P3' is in possession of his cousins and the shop along with the tenanted premises is in possession of his father. He further submits that the petitioner already owns the adjoining shop. He further submits that no evidence has been led to prove that the respondent is owner of 8 shops in the Kiran Market. Shop No.21 was with Sh. Prem Sagar, the respondents father who was in possession as a tenant.

6. This court has considered the submissions of the learned counsel representing the parties

7. The scope of High Court's interference in rent revisions is extremely limited in view of the judgment passed by five Judges Bench in **Hindustan Petroleum Corporation Ltd. vs. Dilbahar Singh(2014) 9 SCC 78.** In any case, this court has evaluated the arguments of the learned counsel representing the parties. The respondent has come up with a specific assertion that he does not have any independent space to conduct

his business of trading in Bann. He claims that the adjoining shop is in possession of his father, who is also trading in the business of Bann. In these circumstances, the onus heavily lies on the petitioner to prove that the respondent independently is already in possession of some shop.

8. Both the courts have found that the petitioner has failed to prove about the existence of 8 shops in the Kiran Market. The petitioner's counsel admits that no document in this regard has been produced. Shop No.21 was rented out to the respondents' father. This shop was given on lease. There is no evidence that the aforesaid shop is in possession of the respondent.

9. The learned counsel representing the petitioner further refers to the income tax return to prove that the respondent is doing trading in Bann.

10. Be that as it may. The landlord is entitled to comfortably carry on his business by seeking the eviction of a tenant. He cannot be forced to carry on the business from anywhere else when he owns premises to satisfy his requirements.

11. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

12. Dismissed.

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

March 01, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO