

[122] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.6590-2018 (O&M)
Date of Decision : 13.05.2024

SARAN DASS MAHAJAN SINCE DECEASED THROUGH LRS

...Petitioner

versus

GURUDWARA SHRI BER SAHIB THROUGH ITS PRESIDENT

....Respondent

Coram : HON'BLE MR. JUSTICEANIL KSHETARPAL

Present : Mr.Vivek K. Thakur, for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

[1] The petitioner herein, is a tenant, who has been ordered to be evicted from the tenanted premises i.e. a shop on the ground of bonafide necessity of the landlord.

[2] Gurudwara Shri Ber Sahib has filed the petition seeking eviction of the petitioner from the shop on the ground that it wants to construct a Complex in order to run a community kitchen on the ground floor. The Rent Controller dismissed the petition, however, upon re-appreciation of the evidence, the Appellate Authority ordered eviction of the tenant on the ground that the requirement of the respondent is bonafide.

[3] Heard the learned counsel representing the petitioner at length and with his able assistance perused the paper book.

[4] The learned counsel representing the petitioner submits that the respondent while filing the petition failed to incorporate the necessary ingredients in their petition. On a Court question, the learned Counsel

representing the petitioner admits that this objection was not included in

the written statement before the Courts below. The objection, if any, shall stand waived due to their failure to include their objections in the written statement. This matter has been explained in the judgment passed by this Honble Court in CR No.6665 of 2016 M/s. Vishal Sarees and Dresses and another Vs. Maninder Kaur and others decided on 17.08.2022. The relevant paras of the aforesaid judgment read as under:-

“18. In that context, the matter is required to be examined. For the first time, the tenant objected to the maintainability of the petition on the ground of lack of necessary pleadings of the ingredients at the time of final arguments before the Rent Controller. In such circumstances, the tenant will be deemed to have acquiesced or abandoned his objection, particularly when neither in the written statement nor in the evidence, this fact was ever pointed out. As per the settled principles of law here in India, it is crystal clear that the pleadings are laconic and the pleadings alone should not be literally examined to non-suit a party, particularly, when no prejudice is caused. It is also well settled that ambiguity in the pleadings regarding the necessary ingredients set out in Section 13 (3) (a) of the Act, if made good in the evidence is the sufficient compliance of the statutory requirement. Reliance in this regard can be placed on Bhatia Cloth House vs. Dr. Raj Kumar Gupta 2008 (4) RCR (Civil) 250, Dr.S.S.Mann vs. A.K.Sharma 2013 (4) RCR (Civil) 1054 and Daulat Ram vs. Hari Ram 1980 (2) RCR (Rent) 108.

19. This matter can be examined from an another aspect. In Madan Gopal vs. Mam Raj AIR 1976 SC 461, the Supreme Court after analysing that the pleadings in the District Court are laconic observed that the Court should not scrutinize the pleadings so meticulously in order to non-suit the parties in dispute. At the most, it is a technical omission, for which the landlord cannot be thrown out, particularly when the technicalities are the handmaid of justice and they should not be a hindrance in imparting the justice. ”

- [5]Accordingly, the present petition is dismissed.
- [6]All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)

JUDGE

13.05.2024

Raman