

2024:PHHC:017627
157 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3364-2021 (O&M)

Date of decision: 07.02.2024

Prithvi Raj Saini

....Petitioner

Versus

Krishna Gaur and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sandeep Lather, Advocate for the petitioner
Mr. Ashish Yadav, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. In this revision petition, the tenant assails the correctness of the concurrent orders passed by the Rent Controller ordering his eviction, which, in appeal, has been affirmed by the appellate authority. As per clause (v) of Section 13(2) of the Haryana Urban (Control of Rent and Eviction) Act, 1973, if a tenant ceases to occupy the tenanted building for a period of a continuous period of 4 months, without reasonable cause, he is liable to be evicted. Both the courts have concurrently found that the petitioner has ceased to occupy the shop in question continuously for a period than 4 months before the date of filing of the eviction petition. The appellate authority, while discussing the electricity consumption pattern of the petitioner, observed as under:-

“The Ld. Rent Controller discussed all the grounds taken by the respondents and concluded that the appellant has ceased to occupy the shop in question and the same is closed for the last 2 years. It has been vehemently argued on behalf of the appellant that from the evidence on record it is not proved that the appellant has ceased to occupy the shop in dispute, however, it may be noticed that Prem Kumar, JE was appointed the Local Commissioner

vide order dated 18.03.2013 to visit the shop in question. He visited the same on 30.03.2013 at 4:00 pm and prepared spot memo EX-AW3/B. He submitted report EX-AW3/A after inspection and reported that the shop in question was found locked. He also took photographs. Upon local enquiry, he came to know that the shop is under lock for the last about 2 years. AW6 Narender Singh, LDC, DHBVNL brought the summoned record of the Meter installed in the shop in question. He brought the record from 01.04.2011 to 01.04.2013. He stated that in November, 2012 the consumption has been shown to be 15 units. In December, 2012 the unit consumption is 14 units, in January, 2013 the consumption has been shown as 160 units on average basis, in February 2013 it is 13 units and in March again 160 units has been shown on average basis. In April 2013 the consumption has been shown as 21 units. In January and March 2013 the shop has been shown to be closed. From the consumption pattern, it can be concluded that the shop was closed from November to April 2013.”

2. Furthermore, the petitioner has not produced any invoice or evidence to prove purchase of spare parts, which are used for repair work of electric items. Even the witnesses examined by the petitioner (tenant) have deposed that they visited the shop in 1986, whereas the petition was filed in 2013. It is evident that the electricity consumption pattern of the petitioner proves that the shop is not being used by him. In January and March, 2023 the official of the Electricity Board reported that the shop is closed. Moreover, the court appointed a Local Commissioner, who also found that the shop is closed. He also inquired from the neighbours who reported and he came to know that the shop is under lock for the last 2 years.

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

4. Hence, dismissed.
5. All the pending miscellaneous applications, if any, are also disposed of.

07.02.2024

rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No