

ish Anand Vs. Raj Kumar

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Court : Punjab and Haryana

Decided On : Feb-20-2014

Appellant : ish Anand

Respondent : Raj Kumar

Judgement :

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH1 Civil Revision No.4613 of 2010 (O&M) Ish AnandPetitioner Versus Raj Kumar ...Respondent 2) Civil Revision No.4614 of 2010 (O&M) Ish AnandPetitioner Versus Vijay Kumar ...Respondent 3) Civil Revision No.4615 of 2010 (O&M) Ish AnandPetitioner Versus Anil Kumar ...Respondent 4) Civil Revision No.4616 of 2010 (O&M) Ish AnandPetitioner Versus Ajay Kumar ...Respondent 5) Civil Revision No.4617 of 2010 Ish AnandPetitioner Versus Ashwani Loomba ...Respondent 6) Civil Revision No.4618 of 2010 Ish AnandPetitioner Versus Singh Daljit 2014.03.03 10:53 I attest to the accuracy of this document Civil Revision No.4613 of 2010 (O&M) -2- Naresh Dhingra ...Respondent 7) Civil Revision No.4619 of 2010 Ish AnandPetitioner Versus Anil Kumar ...Respondent Date of Decision : 20.2.2014 CORAM : HON'BLE MR.JUSTICE MAHESH GROVER Present: Mr.G.C.Shahpuri, Advocate for the petitioner in all the petitions.

Mr.R.K.Sharma, Advocate for the respondents in all the petitions....MAHESH GROVER.J.By this order I shall dispose of Civil Revision Nos.4613 to 4619 of 2010 as they involve commonality of facts and law.

The petitioner, who is landlord, sought the eviction of respondents on the grounds of non-payment of rent and personal necessity.

Both the learned Rent Controller and the Appellate Court non-suited him.

Before this Court the only ground urged is regarding personal necessity which has been negated by the courts below.

A perusal of the impugned orders would show that the claim of the petitioner has been discarded on the following grounds : i) That he has three shops in the same building i.e. one on the ground floor and two on the first floor and therefore this ought to have been sufficient for the petitioner to meet his requirement or at least sufficient to make a start so as to show his bona fides. The petitioner has failed to show that this available space is insufficient for him.

Singh Daljit ii) That adjacent to the shops is the residential area of the 2014.03.03 10:53 I attest to the accuracy of this document Civil Revision No.4613 of 2010 (O&M) -3- petitioner where he has a vacant space and a lawn measuring about 1000 square yards and if the need was genuine the petitioner could have utilised this area for commercial purposes.

iii) The site plan produced by the petitioner was not in accordance with the floor plan of the building and thus no credence could be given to it.

iv) That a comprehensive single petition should have been preferred against all the seven tenants instead of separate petitions.

Learned counsel for the petitioner contends that the aforesaid reasoning adopted by the courts below is unsustainable in the eyes of law considering the settled proposition of law that the bona fide need of the landlord has to be viewed from his perspective and not from the perspective of the disputant.

The respondent however justifies the orders of the courts below.

I have heard the learned counsel for the petitioner and have perused the relevant material.

The rent petitions preferred by the petitioner indicates the need expressed by him.

In para 3 (b) he has averred that he requires the shops for his personal use and occupation as he is manufacturing rexin auto mats, insulation mats and bath mats at his factory situated in the industrial area in Yamuna Nagar and that he does not have a sale and display counter in the city of Yamuna Nagar for which he requires the shops in question.

He has averred that the shops in his possession on the ground floor and first floor are not sufficient for opening of the intended sale and display counter and thus he has sought eviction of the tenants from the shops which are situated in one row.

Singh Daljit 2014.03.03 10:53 I attest to the accuracy of this document Civil Revision No.4613 of 2010 (O&M) -4- If the aforesaid need is to be considered, then it cannot be said that it is out of tune or out of sync with the requirement that has been expressed by the petitioner.

If a person is in business and seeks to expand it by utilising more area as per his desire then it cannot be said that such a need is in any manner not aligned with the natural course of expansion of business.

Every landlord has a right to run his business in the manner he perceives to be beneficial to him and is entitled to do so, and the courts cannot adopt reasoning such as the one adopted in the instant case by questioning that the petitioner could have utilised the vacant place in his residential area for commercial purposes.

This to the mind of the Court is an absurd reasoning where the court stretches the limits of reasoning to question the need of a landlord and runs contrary to the observations of the Hon'ble Supreme Court.

For the purposes of reference relevant observations of the Hon'ble Supreme Court in *Sarla Ahuja v.*

United India Insurance Company LTD. 1998(2) RCR533 are extracted as under :-
14.

The crux of the ground envisaged in clause (e) of Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bona fide.

When a landlord asserts that he requires his building for his own occupation the Rent Controller shall not proceed on the presumption that the requirement is not bona fide.

When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona fide.

It is often said by courts that it is not for the tenant to dictate terms of the landlord as to how else he can adjust Singh Daljit 2014.03.03 10:53 I attest to the accuracy of this document Civil Revision No.4613 of 2010 (O&M) -5- himself without getting possession of the tenanted premises.

While deciding the question of bona fides of the requirement of the landlord it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself.

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Similarly, in Atma S.Berar v.

Mukhtiar Singh 2003(1) RCR42it has been observed as under :- The landlord is the best judge of his residential requirements.

He has a complete freedom in the matter.

It is no concern of the courts to dictate to the landlord how, and in what manner, he should live or to prescribe for him a residential standard of their own. It is not in dispute that the petitioner is in some manufacturing activity, and therefore his desire to have a sale and display counter for his manufactured wares cannot be construed to be illogical.

The petitioner has also placed on record the site plan by which he proposes to bring the existing units (i.e. demised premises) in conformity with his perception of expansion of business and the court could not have discarded it as being unworthy of credence simply on the ground that it was not according to the floor plan as that would have been an issue left to the competent municipal authority.

But suffice it to say that the petitioner's intent to expand his business by opening a sale and display counter could not have been doubted by the courts below.

For the same reason the courts went wrong in saying that since the petitioner had not utilised one shop on the ground floor and two on the first floor, the need of the petitioner was imaginary.

Nothing could be farther displaced than logic.

If a person has to utilise an area for sale and display of his wares that he manufactures, then evidently he would put his best foot forward and not place his material for sale in an area which Singh Daljit 2014.03.03 10:53 I attest to the accuracy of this document Civil Revision No.4613 of 2010 (O&M) -6- may not be conducive to such a display and run contrary to the commercial aspects which would dictate a decent place for display if the goods manufactured by the petitioner have to inspire confidence in the consumers. This Court is of the opinion that a person who is in a particular business and desirous to expand the same by occupying more premises, cannot be prevented from doing so more particularly when they belong to him, as expansion of business would be a natural desire and in such circumstances, the need of the landlord and his desire would converge and the courts would thus have to respect such a need fuelled by desire.

For the aforesaid reasons, I am of the opinion that the courts below have gone wrong in adopting reasoning which is unsustainable when contrasted with the settled proposition of law while testing the bona fide need of a landlord.

The revision petitions are thus accepted and the impugned orders of the Rent Controller and Appellate Authority are set aside.

20.2.2014 (MAHESH GROVER) dss JUDGE Singh Daljit 2014.03.03 10:53 I attest to the accuracy of this document

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