

Om Parkash Vs. Rangil Singh

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Court : Punjab and Haryana

Decided On : Jan-17-2006

Reported in : (2006)143PLR456

Judge : Hemant Gupta, J.

Appeal No. : Civil Revision No. 3089 of 2004

Appellant : Om Parkash

Respondent : Rangil Singh

Advocate for Def. : Akshay Bhan, Adv.

Advocate for Pet/Ap. : A.M. Punchi, Adv.

Disposition : Petition dismissed

Judgement :

Hemant Gupta, J.

1. The present revision petition is directed against the ejectment order passed by the Courts below in respect of shop No. 83 owned by respondent at Badheri, falling within the city of Chandigarh.

2. The respondent-landlord sought ejectment of the petitioner on the ground that the said shop is required for establishing his son Supinder Singh for the purpose of

Cycle repairs shop. The said plea of the tenant was accepted by the Rent Controller and order of ejectment was passed on 13.8.2001. During the pendency of the appeal, it was pointed out that the landlord is owning four contiguous shops bearing shop Nos. 83, 84, 85 and 86. One of the shops No. 86 has become available for use and occupation of the landlord. Therefore, the ground of personal requirement sought by the landlord is not available. The tenant has filed an affidavit before the learned Appellate Authority that shop No. 86 has been occupied by his another son Jagtar Singh, who is running a STD booth in the said shop. However, learned Appellate Authority while considering the subsequent events found that there is nothing on record to show similarity between shop Nos. 83 and 86 and to show that both the shops were in equally good location.

3. In view of the findings recorded, the learned Counsel for the petitioner has vehemently argued that since shops are contiguous and landlord has admitted in his cross-examination that utility of the shops are same, therefore, the finding recorded by the learned Appellate Court is clearly not sustainable and order of ejectment, consequently, could not have been passed by the learned Appellate Authority.

4. However, I am of the view that though reasoning given by the Appellate Authority may be fallacious but the fact remains that shop No. 86 has been occupied by another son of the landlord, namely, Jagtar Singh. The requirement of shop is in dispute for another son Supinder Singh. At the time of filing of the present ejectment petition, Jagtar Singh was minor aged 17 years, therefore, if during the pendency of the ejectment petition another shop has become available in which one of the sons can be adjusted that will not show that the requirement of Supinder Singh son of the landlord does not survive.

5. Learned Counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court reported as Deena Nath v. Pooran Lal : [2001]3SCR925 to contend that if the landlord is in occupation of more than one shop, the order of ejectment could not have been passed in favour of the landlord. However, the said judgment has no application in the facts of the present case where the landlord has established the requirement of two shops for his two sons.

6. It cannot be said that said requirement is mere wish or a desire. When the landlord has two adult sons, it is the natural desire of the father to settle his two sons independently. The said action of the landlord cannot be suffering from any patent illegality or irregularity which may warrants interference in exercise of revisional jurisdiction.

7. Dismissed in limine.

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