

(2004) 12 P&H CK 0033

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 6004 of 2004

Sanji Ram

APPELLANT

Vs

Ajit Singh

RESPONDENT

Date of Decision: Dec. 9, 2004

Citation: (2005) 139 PLR 847 : (2005) 1 RCR(Rent) 462

Hon'ble Judges: Kiran Anand Lall, J

Bench: Single Bench

Advocate: M.L. Sarin and Hemant Sarin, for the Appellant;

Final Decision: Dismissed

Judgement

Kiran Anand Lall, J.

The petitioner is tenant of the respondent in the demised shop, with effect from 1977, on a monthly rent of just Rs. 80/- per month. Since 9.1.1999, he stopped paying even this meagre amount of rent.

2. The respondent earlier used to sell cloth, on bicycle as a hawker. But, since he is now aged 70-80 years and his health has also become weak, he decided to do cloth business while sitting at shop. He, therefore, asked the petitioner to vacate the shop. The latter failed to "oblige" him. Therefore, he had to knock the door of rent-controller to help him in getting the shop vacated through process of law.

3. On notice being issued by the rent-controller, petitioner paid the arrears of rent due, alongwith interest and the costs assessed by the rent-controller, within the time prescribed. However, he contested his ejection, denying that the respondent is in need of the shop for carrying on business. According to him, the respondent who is an old person, aged 75 years, is weak in health and is, as such, not in position to do any work. He also denied that the respondent had earlier been carrying on the business of cloth, as a hawker. According to him, the respondent has been doing "business of finance" since the time of his ancestors.

4. The rent controller as well as the appellate authority have held that the respondent requires the shop for his bonafide use and occupation. It is the concurrent finding of fact which is under challenge in this revision.

5. The facts which are not in dispute are that the respondent does not own any other shop. He has also not vacated any shop, since the coming into force of the East Punjab Urban Rent Restriction Act, 1949. he is in the evening of his life, being 70-80 years of age. It is mentioned in para 11 of the judgment of the appellate authority that the fact that the respondent earlier used to sell cloth, as a hawker was admitted by petitioner's own witness, RW 3. In the same para, it is further mentioned that the respondent has been advised by the doctor not to do "mobile business". He, no doubt, has to earn his livelihood. He does not appear to be from the category of those wealthy persons who can afford not to strain themselves and relax in old age while sitting at home. Therefore, his requirement to earn livelihood by doing cloth business in his shop cannot be said to be anything except bonafide.

6. The shop is under the tenancy of the petitioner for the last 27 years and that too at almost a nominal rent of Rs. 80/- per month. During the long period of about three decades, the respondent had never asked for any increase in the rent. And now, in his old age, when he is not in a position to sell cloth, as a hawker, his pleaded requirement to get his only shop vacated for running the cloth-business, cannot be termed anything but bonafide, and that is what the rent-controller as well as the appellate authority have held. In the judgments referred to by the learned counsel, reported as Phiroze Bamanji Desai Vs. Chandrakant N. Patel and Others, 1994 (2) R.L.R. 182, Fakir Chand and Anr v. Bhagwan Dass (2003) 133 P.L.R. 371, Balwant Singh Chaudhary Vs. The Hindustan Petroleum Corporation Limited Co., Balwant Singh Chaudhary v. The Hindustan Petroleum Corporation Limited Company, s4 also, what was laid down was that a landlord can get tenanted premises vacated for his own use and occupation only if his requirement is bonafide and not otherwise. So, none of these judgments is of any use to him, as decidedly, there could not have been a better case of bonafide requirement than of the respondent herein.

7. The order Under challenge, thus, does not call for any interference and the revision merits dismissal in limine. Ordered accordingly.