

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Revision No. 83 of 2001

Reserved on : 12.5.2008.

Date of decision : 30th May, 2008

Ishwar Dass

Petitioner

Versus

Faquir Chand and another

Respondents

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?*¹ *No.

For the petitioner : Mr.Sanjeev Kuthiala , Advocate.

For the Respondents: Mr. N.K.Thakur, Advocate.

Deepak Gupta, J.

This revision petition under Section 24 (5) of the H.P.Urban Rent Contol Act (here-in-after referred to as the Act) has been filed by the petitioner (hereinafter referred to as the tenant) challenging the eviction order passed by the Rent Controller on 22.1.1999 which stand affirmed by the Appellate Authority vide its order dated 1.3.2001.

Admitted facts are that tenant is occupying a shop situated in Ward No.7, M.C.Area, Hamirpur Town, Hamirpur. The landlord filed a petition for eviction of the

¹ ***Whether the reporters of the local papers may be allowed to see the Judgment?***
Yes.

tenant on various grounds. It is not necessary to deal with all the grounds. It would be pertinent to state that the Rent Controller allowed the petition of the landlord on two grounds. The first ground was that the premises had become unfit for human habitation and were bonafide required by the landlord for carrying out reconstruction work. The other ground of eviction was that the respondent was in arrears of rent. As far as issue of arrears of rent is concerned, the same no longer survives, since the tenant paid the arrears of rent within the specified period. The tenant filed an appeal before the learned Appellate Authority and the learned Appellate Authority upheld the order of the learned trial Court.

Section 14(3)(c) of the Act deals with eviction of tenants, on the ground that the building is required for reconstruction. It reads as follows:-

“14. Eviction of tenants.-(1) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise, whether before or after the termination of the tenancy, except in accordance with the provisions of this Act.

(2).....

(3) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession –

(a)

(b)

(c) in the case of any building or rented land, if he requires it to carry any building work at the instance of the Government or local authority or any Improvement Trust under some improvement or development scheme or if it has become unsafe or unfit for human habitation or is required bonafide by him for carrying out repairs which cannot be carried out without the building or rented land being vacated or that the building or rented land is required bonafide by him for the purpose of building or rebuilding or making thereto any substantial additions or alterations and that such building or rebuilding or addition or alteration cannot be carried out without the building or rented land being vacated....”

Both the Courts below have come to a concurrent finding of fact that the landlord bonafide requires the building for reconstruction. Rattan Chand, power of attorney of the landlord, appeared as PW-1. He stated that the building is dilapidated and the same has developed cracks. The roof is hanging and that the building is more than 60 years old and the wood in the construction had rotted. The version of this witness is supported by PW-4 Balaiti Ram, who has also stated that the building is in a dilapidated condition. It is also proved on record that PW-2 Deep Chand, who is a draftsman, had prepared a plan for re-construction of the building and according to PW-3 Raj Krishan, Secretary, Municipal Committee, Hamirpur, the said plan has been approved by the Municipal Committee for reconstruction of the

building vide sanction order dated 1st March, 1994. The tenant alongwith this petition has filed photographs of the shop which show that the shop is in a very dilapidated stage and in a ramshackle condition. In fact, the tenant himself had filed an application before this Court for permission to make repairs and to replace the roof. All these factors substantiate the claim of the landlord that the building was in a dilapidated condition. The case of the respondent is basically that it is the landlord who have themselves removed some of the slates from the roof and made the building dilapidated. It is also apparent that one of the shops adjoining the disputed shop has been totally reconstructed. Both the shops were first situate in one building but after partition the other shop fell to the share of Rattan Chand PW-1. He reconstructed his shop and thereby in this process also the roof of the disputed shop was damaged.

The findings of both the learned Courts below that the shop requires reconstruction is a pure finding of fact which calls for no interference in exercise of revisional jurisdiction. The attorney of the landlord, who appeared in evidence, has clearly stated that he has got the building plan passed from the Committee and that no reconstruction can take place without getting the vacant position of the building. No landlord can be denied the

right to put his premises to beneficial use. This law is now settled by the Apex Court. Therefore, there is no error in the orders of both the authorities.

Keeping in view all the aforesaid facts, I am of the considered view that there is no merit in the petition, which is accordingly dismissed, with no order as to costs.

30th May, 2008
TM

(Deepak Gupta), J.