

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CR 4076/2017(O&M)

Date of decision:15.09.2017

Mahant Sarowar Nath

.....Petitioner

v.

Ashok Kumar through his Lrs.

.....Respondent

Coram: Hon'ble Mr.Justice Jaswant Singh

Present:- Mr.Amit Gupta,Advocate for the petitioner.

Jaswant Singh,J,(Oral).

Petitioner/landlord is in revision assailing the concurrent findings recorded by both the authorities below whereby his eviction petition has been dismissed by Rent Controller,Gurdaspur vide order dated 22.9.2014 and findings affirmed in appeal by Appellate Authority,Gurdaspur vide order dated 1.2.2017.

Counsel for the petitioner heard at length.

An eviction petition was filed on 12.10.2008 seeking eviction of the tenant from the residential premises comprising one room, kitchen, verandah and courtyard as per site plan, inter alia on the ground of non-payment of rent @ Rs.10/- per month w.e.f. 28.2.1982; (ii) building being unsafe and unfit for human habitation; (iii) material alterations diminishing the value of the property and (iv) change of user.

As regards non-payment of rent, petitioner himself conceded before the Rent Controller that the rent has been paid by the respondents. It

was also found that there was no change of user as the premises was let out to one Tara Singh and Ashok Kumar was his adopted son. The earlier eviction petition of the petitioner was dismissed upto this Court wherein it was held that Ashok Kumar was not a sub-tenant. Regarding impairment of value and utility it was found that petitioner has failed to prove the same and the temporary structure,if any, could be removed at any time. On the point of building being unfit and unsafe for human habitation it was found that Pawan Kapil,RW6 has opined that though the structure was old yet it was safe to live and just required regular yearly maintenance like mud plastering and that the structure was in habitable condition.

In view of the findings recorded by the Courts below this Court cannot re-appreciate evidence to come to a different conclusion than the findings returned by the Courts below. Reliance in this regard is placed upon the judgment of Hon'ble Supreme Court of India in Hindustan Petroleum Corporation Limited v Dilbahar Singh, 2014(4) RCR(Civil)162.

Dismissed.

15.09.2017
joshi

(Jaswant Singh)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No