

**(2000) 01 P&H CK 0006**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Civil Revision No. 191 of 2000

The Ferozpur Coop. Printing and  
Publishing Society Ltd.

APPELLANT

Vs

Roshan Lal and Another

RESPONDENT

---

**Date of Decision:** Jan. 19, 2000

**Acts Referred:**

- East Punjab Urban Rent Restriction Act, 1949 - Section 13(3)

**Citation:** (2000) 126 PLR 277 : (2000) 1 RCR(Rent) 229

**Hon'ble Judges:** R.L. Anand, J

**Bench:** Single Bench

**Advocate:** Arun Jain, for the Appellant; C.M. Munjhal, for the Respondent

**Final Decision:** Dismissed

---

**Judgement**

R.L. Anand, J.

This is a tenant's revision and has been directed against the order dated 4.11.1999 passed by the Appellate Authority, Ferozepur who affirmed the order dated 6.6.1998 of the Rent Controller ordering eviction of the tenant from shop No. B1/1R/57 situated on Mall Road, Ferozepur City, on the ground of personal necessity, for the reasons given in paras No. 10 to 14 of the judgment as follows :-

"10. The learned counsel for the appellant then argued that both the respondents are running a shop in the same bazar in which the premises in dispute are situated and there is no personal necessity for them to get this shop vacated. The contention of the applicants is that the said shop is owned by Roshan Lal applicant alone and Som Parkash is an employee in that shop. This fact is controverted by the learned counsel for the appellants on the ground that they are residing together in the shop, they have a single mess and therefore, Som Parkash cannot be considered to be an employee of Roshan Lal having no right in the business. This contention of the appellants was not accepted by the learned Rent Controller. I also do not find any

merit in this contention. It is proved by Ramit Kumar, AW.2, Som Parkash himself appearing as AW.3 and Narinder Kumar AW.4 that the said business is owned by Roshan Lal alone and Som Parkash is only an employee therein. If Som Parkash had a share in that business as a proprietor he would have been the last person to depose so. Moreover, there is no evidence produced by the appellants to prove the ownership of Som Parkash to the said business.

11. In this manner, it is proved that Som Parkash is not in occupation of any shop. He wants to start his own business. He has the expertise and the knowledge to start this business because he has been working as such in the shop of Roshan Lal. His need to get the shop vacated on personal necessity is, therefore, bona fide.

12. As regards the remaining half portion of the shop which is owned by Roshan Lal, the contention of the appellants is that the same cannot be got vacated by the landlord for the personal necessity of his son. This contention was not accepted by the learned Rent Controller. Rightly so, because in our society, it is the duty of the father to settle his son who has not been able to otherwise settle in life. Ramit Kumar AW.2 has not got job so far. Roshan Lal wants to settle him in business and therefore, needs the shop in dispute for this purpose. It cannot be said if the need of the shop for starting the business of Ramit Kumar is not the need of Roshan Lal.

13. In support of his contention learned counsel for the respondents has cited a number of authorities. In case *Dharampal v. VIIth Additional District Judge, Bulandshahr*, 1997(2) RCR 676, a shop was needed by the landlady to settle her unemployed son in business. The need of the landlady was held to be bona fide. In case *G. Sastha v. G. Somathi Ammal* 1998(1) RCR 245, it was held that even though the word "members" is not used in Section 13(2)(c) of Tamil Nadu Buildings (Lease and Rent) control) Act, a landlord can seek eviction of tenant for additional accommodation for being used by a member of his family. In that case, the landlady was held entitled to evict the tenant for requirement of her son. In case *Tara Devi Jalan v. Radheshyam Ruia* 1997(2) RCR 600, the provision of bona fide requirement of landlord as mentioned in West Bengal Premises Tenancy Act, 1956 was interpreted and it was held that the expression "his own" included the off springs, normal emanations of landlord who are resident with him until there was a division of estate. In that case the son of the landlady was having a separate kitchen and was not financially or otherwise dependent on her but even then she was held entitled to eject the tenant for the need of her son. In case *G.R. Ragupathy v. Dr. K. Sankar* 1997(2) RCR 422, a landlord wanted to start a separate clinic and medical shop for the benefit of his son. The Madras High Court held his need to be bona fide. In case *S. Mariappan v. Kadar Beevi* 1998(1) RCR 175, the landlord wanted the premises for business of her son which was held to be her bona fide requirement. In case *Ganesharam v. Laxmibai* 1998(1) RCR 44, the landlord wanted the premises for his son to start business. It was held that the need of landlord would be the need of his family and such business falls within the meaning of the words "his business". In

case Abdul Hafeez Khan v. IIIrd Additional District Judge 1998(1) RCR 175, the landlord wanted the premises for residence and office of his son who was living in village and was commuting daily. The need of the landlord was held to be bona fide. In view of this last it cannot be said that the need of Roshan Lal to settle his son Ramit Kumar to start a business with his uncle Som Parkash applicant-landlord in the shop in dispute is not bona fide.

14. It is argued by the learned counsel for the appellants that Roshan Lal applicant has not been examined, who is the landlord of half portion of the shop and therefore, in his absence it cannot be said if he wants to settle his son in the premises. I do not find any merit in this argument. The ejectment application is signed by Roshan Lal also. His son Ramit Kumar had appeared as AW.2. Som Parkash landlord has also appeared in the witness box as Aw.3. It was held in case Tara Devi v. Radheshyam Ruia 1997(2) RCR 600 that in case of bona fide requirement where the daughter-in-law of the landlord appeared in the witness box, the non-examination of the landlady was not fatal to the suit for eviction. In the present case, not only the son but the brother of Roshan Lal have appeared in the witness box. Similarly the fact the landlord did not plead that his son had no other non-residential accommodation was held to be immaterial in case G.R. Ragupathy v. Dr. K.Sankar 1997(2) RCR 422."

2. I have heard Shri Arun Jain, Advocate appearing on behalf of the petitioners and Shri CM. Munjal, Advocate appearing on behalf of the caveator-landlords and with their assistance have gone through the record of this case.

3. Learned counsel for the petitioners has vehemently argued that findings of the Rent Controller as well as Appellate Authority are factually incorrect. Unfolding his submissions Mr. Jain submitted that mere wish of the land lord does not give him right to seek ejectment of the premises especially in this case there is mala fide intention on the part of the landlord proved on record when he earlier filed an ejectment petition against the petitioners and that ejectment petition was dismissed by the Rent Controller as well as Appellate Authority. The argument is not acceptable to the Court because the earlier ejectment was on different ground. If the law has given an additional right to a landlord to seek ejectment on an additional ground such a bonafide necessity and even with regard to commercial premises and if the landlord has been able to prove his case, there is no difficulty in allowing such ejectment application in favour of the landlord. It is proved on the record that landlord requires the premises in order to run business for Ramit Kumar who is son of Roshan Lal landlord No. 1. "Necessity" has been proved to be bonafide, as a matter of fact, by the Rent Controller as well as by the first Appellate Authority. In these circumstances, when there is concurrent findings of fact on the record regarding bonafide necessity, no interference can be done in this revision unless there is total wrong appreciation of evidence which is not in the present case.

4. Learned counsel for the petitioner then submitted and relied upon the judgment Gulab Bai v. Nalin Narsi Vohra 1991 HRR 427 and submitted that mere wish of the landlord cannot prevail upon the mind of the Rent Controller who is supposed to formulate an independent opinion about the bonafide necessity of the landlord. There is no dispute about the proposition laid down by the Hon"ble Supreme Court but in the present case, it is proved that landlord Roshan Lal wanted the demised premises for the necessity of his son and he wants to induct his son in the demised premises. Protection has already been granted to a tenant u/s 13(4) of the Act. Hence, I do not see any illegality, impropriety or material irregularity in the order of the Rent Controller or Appellate authority. I do not find any merit in this revision and dismiss the same.