

## Inder Kaur and Others Vs Mehar Singh

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

**Date of Decision:** Dec. 8, 1983

**Hon'ble Judges:** G.C. Mital, J

**Bench:** Single Bench

**Advocate:** Vinod Sharma, for the Appellant; H.L. Sarin with Mr. M.L. Sarin and Mr. M.M. Singh Bedi, for the Respondent

**Final Decision:** Dismissed

### Judgement

G.C. Mital, J.

Mehar Singh landlord and owner of the house within the Municipal limits of Ropar town, which was in occupation of

Shrimati Inder Kaur as tenant filed an application for ejectment inter alia, on the ground of personal necessity, During the proceedings before the

Rent Controller, the tenant died and her legal representatives were brought on the record. The petition was contested by, the tenants. The matter

was gone into by the Rent Controller who found that the landlord was living in village Katli-1-1/2 kilometres away from the town of Ropar, that it

was proved on the record that he needed the house for his personal occupation for a family consisting of himself, his wife, four sons and a daughter

and that he was not in occupation of any premises in the municipal area nor has vacated any such premises after the commencement of the East

Punjab Urban Rent Restriction Act, 1909. It. was also found that the house in dispute consisted of four rooms whereas the house in occupation of

the landlord in the village consisted of merely two rooms the aforesaid decision was maintained by the appellate authority. This is the tenant's

revision.

2. Before me two points have been argued. One is that the landlord was found wrong with regard to the monthly rate of rent, and, therefore he

should not be believed with regard to his personal necessity to occupy the house and that in the ejectment petition, the three requisite ingredients

were pleaded without giving details in regard to personal necessity and, therefore the Courts below erred in law in looking to the evidence of the

landlord and the petition should have been thrown out without reference to the evidence brought on record

3. After hearing the Learned Counsel for the parties, I am of the view that there is no merit in either of the contentions. It is true that the landlord's

case with regard to the monthly, rate of rent was not accepted by the Rent Controller. Therefore, the evidence of the landlord deserves to be

scrutinized with caution. It will be wholly wrong to hold that even if the Statement of the landlord and his evidence on his other plea of personal

necessity is reliable, it still the same should not be relied upon.

4. Adverting to the second point, all the three ingredient which the landlord has to plead to seek ejectment on the ground of personal necessity

were duly pleaded, and this matter was contested by the tenants on which the following issue was framed:

Whether the premises in dispute was bonafide required by the applicant for his personal use and occupation as alleged ? OPA Both the parties led

evidence on this issue. Both the authorities below found that it was proved on the record that the landlord had four shop? within the urban area on

which there were chaubaras and that all the four shops alongwith two chaubaras were with tenants, whereas the chaubaras on the remaining two

shops, which were in occupation of the landlord became vacant due to the death of the landlord's father but that were not sufficient for the

occupation of family consisting of several members. It was further held that the house in dispute was purchased by the landlord, which consisted of

four rooms, whereas the house occupied by him in the village consisted of merely two rooms. Most of these facts were elicited from the witnesses

of the tenants and, therefore, are not in serious dispute. The only inference that can be drawn in this case is that the, landlord genuinely needed the

premises in dispute for his own occupation. On these facts, it cannot be said that the ejectment petition should be thrown out as incompetent and

no reference should be made to the evidence because full details with regard to personal necessity were not mentioned in the petition for ejectment.

The counsel for the tenant has placed reliance on Viliyil Moideenkunhi v. Edacherikkandi Govindan 1983 (1) R.C. R. 358, Abdul Samad

Makhdam Baksh Shaikh v. Sudha Akant Parakhe 1982 (2) R.C. R. 461 and Smt. Parkash Sood v. Surinder Singh Bawa 1980 (1) R.C. R. 647,

in support of the aforesaid contentions I have gone through all these decisions. They are clearly distinguishable on facts. I am of the considered

view that each case has to be decided on its own peculiar facts

5. It has also been found that the landlord is serving as a driver with an Advocate of Ropar and the Advocate's house is quite close to the house in

dispute. In case the owner of the house wants to shift from his village house alongwith family to the town, normally he should be allowed to occupy

his house in the town unless there is some evidence to show that the application for eviction was filed with some ulterior motive. There is not the

slightest suggestion on the record about any ulterior motive. Accordingly, I am unable to disagree with the decisions of the two Courts below about

the bonafide necessity of the landlord. In affirming the findings of the two Courts below I kept in view that the landlord's evidence should be

judged with caution and in spite of that I find that the decisions of the two Courts below are correct.

6. For the reasons recorded above, there is no merit in this revision and the same is dismissed but without any order as to costs.