

(2010) 11 P&amp;H CK 0346

**High Court Of Punjab And Haryana At Chandigarh****Case No:** Civil Revision No. 7354 of 2010

Oma alia Om Parkash

APPELLANT

Vs

Harbhajan Singh

RESPONDENT

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**Date of Decision:** Nov. 11, 2010**Hon'ble Judges:** Kanwaljit Singh Ahluwalia, J**Bench:** Single Bench**Final Decision:** Dismissed

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**Judgement**

Kanwaljit Singh Ahluwalia, J.

The Petitioner/tenant has lost in both the Courts below and has approached the Revisional Court to assail the findings of fact.

2. Briefly stated, Respondent/landlord Harbhajan Singh, who is 75 years of age, instituted the eviction petition stating therein that he had built six shops out of which four were rented out, whereas one shop is with his elder son who is running the Printing Press therein and the other shop is being used as a drawing room of the house. The shop in dispute is required by the Respondent/landlord for settling his son namely Baljinder Singh, who is unemployed.

3. Before both the Courts below, the following arguments were raised:

A) Firstly, the landlord can always vacate the shop where the Drawing Room is maintained and settle his son Baljinder Singh. Both the Courts below have rejected this argument saying that the landlord is the best judge of his needs and the tenant cannot dictate the terms and say that the landlord should shift his Drawing Room to accommodate his unemployed son.

B) The second argument raised was that the landlord himself has not appeared in the witness box, instead his elder son Surinder Singh appeared as AW.2 as his attorney. Taking his argument further, Mr. Lath has submitted that even though the landlord is 75 years old and hard of hearing, he should have appeared himself in the

witness box as he is not suffering from any disability and the facts being in his knowledge, he could only depose regarding his needs. This argument has also been rejected by both the Courts below by observing that the elder son of the landlord is well acquainted with the needs of the family and is a competent witness.

C) Taking his argument further, Mr. Lath has submitted that even the Power of Attorney, executed by the landlord, suffer from defects. It is stated that in the Power of Attorney the landlord has authorized his elder son Surinder Singh to appear as a witness in the Civil Court but not in the Court of Rent Controller. I am unable to comprehend this argument as the Rent Court, for all intent and purposes, is a Civil Court.

D) Further, it has been submitted that Baljinder Singh, son of the Petitioner, is doing the dairy business with his father, therefore, to say that the demised shop is required for his personal necessity is a made up affair. Both the Courts below have rejected this argument holding that the dairy business is run by the landlord and his son Baljinder Singh has an independent right to start his own business.

E) Lastly, Mr. Lath has submitted that in the year 2000, the landlord had filed the eviction petition against Ram Kumar, another tenant and the same was dismissed as withdrawn after the rent was enhanced. I have perused the judgments rendered by both the Courts below. This argument has not been raised before them. Hence, the Petitioner cannot raise this argument before the Revisional Court, which for his own convenience, has not been raised before both the Courts below.

Hence, there is no merit in the present revision petition and the same is hereby dismissed, in limine.