

(2006) 12 P&amp;H CK 0106

## High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 810 of 2003

Inderjit

APPELLANT

Vs

Mahesh Gupta

RESPONDENT

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**Date of Decision:** Dec. 15, 2006**Citation:** (2007) 3 CivCC 386 : (2007) 2 RCR(Civil) 685 : (2007) 1 RCR(Rent) 414**Hon'ble Judges:** Hemant Gupta, J**Bench:** Single Bench**Advocate:** M.L. Sarin and Mr. Vivek Sood, for the Appellant; Deepak Suri, for the Respondent**Final Decision:** Dismissed

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**Judgement**

Hemant Gupta, J.

The tenant is in revision petition aggrieved against the ejectment order passed by the Courts below in respect of cabin measuring 5 feet x 8 feet which is part of Booth No.46, Sector 9, Chandigarh, on the ground that the Booth is required for bona fide use and occupation of the landlord and his son Ashu Gupta.

2. As per the case set up by the respondent, a portion measuring 5 feet x 8 feet with independent entrance, fitted with iron shutter having opening towards east side of Booth No.46, Sector 9, Chandigarh was let out at a monthly rent of Rs. 150/-. The petitioner herein is doing business of watch repairs in the said Booth under the name and style of M/s.Deluxe Watch Company. The ejectment of the tenant was sought on the ground that the premises is required for bona fide use and occupation of his family. He has got two grown up sons namely, Ajay Gupta aged 23 years and Ashu Gupta aged 19 years. Both of them are unemployed, unmarried and solely dependent upon their parents and as such, they are to be settled in life. Ajay Gupta, the elder son, would join the business with his mother, who is running her independent business in Booth No.47, Sector 9, Chandigarh whereas Ashu Gupta, the younger son, would join the business with his father i.e. the Booth in question. The landlord wants to expand his already existing business and also to do some

additional business like lamination and gift items for which extra space and accommodation is required. Both the Courts have passed an order of eviction finding that the requirement pleaded is bona fide.

3. Learned counsel for the petitioner has vehemently argued that the ejectment petition itself is not maintainable in as much as the ejectment has been sought of one Inderjit as sole proprietor of M/s.Deluxe Watch Company, whereas the correct name of the tenant is Amarjit Singh.

4. The said argument is not tenable for the reason that there is no-dispute of identity of the tenanted premises or the tenant therein. Mere wrong description of the name of the tenant will not vitiate the entire proceedings, as admittedly, the present revision petition has been filed by Amarjit Singh, though titled as Inderjit. In the memo of parties itself, the correct name of the petitioner has been described as Amarjit Singh. The petitioner herein (Amarjit Singh) has filed the written statement before the learned Rent Controller and also filed an appeal before the learned Rent Controller and also filed an appeal before the learned Appellate Authority. Therefore, mere describing the name of a tenant incorrectly will not vitiate the entire proceedings initiated against the tenant.

5. Learned counsel for the petitioner has vehemently argued that Booth No.48, Sector 9, Chandigarh has been purchased by Ajay Gupta, vide registered sale deed dated 16.09.1999, the application was filed before the learned Appellate Authority for amendment of the written statement to plead the said fact and to assert that the ground of personal necessity of the landlord has ceased to exist. As per the petitioner, the learned Appellate Authority has wrongly declined to take into consideration the factum of purchase of the property by Ajay Gupta as it is the case of the petitioner that Ashu Gupta, for whom the landlord has sought the ejectment is said to be working with his brother Ajay Gupta, who has purchased the said Booth.

6. I do not find any substance in the arguments raised by the learned counsel for the petitioner. It is the case of the landlord in the ejectment petition itself that Ajay Gupta shall do business with his mother in Booth No.47 which is owned by her. If said Ajay Gupta, has purchased adjoining Booth, that cannot be a ground to doubt the bona fide of the landlord in respect of settlement of his other son i.e. Ashu Gupta in the premises in dispute. Ajay Gupta is adult grown up son and thus, the purchase of property by him cannot be taken into consideration to find out the requirement of his younger brother.

7. The argument that Ashu Gupta, for the benefit of whom the eviction of the tenant is sought is working with his brother Ajay Gupta, is again of no consequence. If till such time the premises are made available, both brothers have joined together and working to make living, cannot he said to be a ground to decline ejectment of a tenant from a small portion of 5 feet x 8 feet. It is the natural desire of every father

to settle his son in an appropriate vocation. Ashu Gupta is dependent upon his father, for the purposes of accommodation. Even if the younger son is working to make his living with his elder brother and waiting for an opportunity to start his independent business in the premises in dispute, it cannot be said that the requirement pleaded is fanciful, lacks bona fide or unwarranted. It is not necessary that the son of the landlord must remain unemployed, unproductive and wait for the eviction of a tenant for an indefinite period to enable him to start his own business in the demised premises. It is not the case of the tenant that the Ashu Gupta has acquired any other premises within the urban area of Chandigarh or that his father has got any other property at Chandigarh where Ashu Gupta can start his business.

8. Learned counsel for the petitioner has relied upon [M/S Rahabhar Productions Pvt. Ltd. Vs. Rajendra K. Tandon](#), , [Maqboolunnisa Vs. Mohd. Saleha Quaraishi](#), [Sri Kempaiah Vs. Lingaiah and Others](#), and a judgment of this Court in [Sadhu Ram Verma Vs. Pawan Kumar](#), to contend that the landlord has failed to prove the need for the premises in dispute. Therefore, the eviction order passed by the Courts below is not sustainable.

9. On the other hand, learned counsel for the respondent while defending the order of eviction has relied upon [Akhileshwar Kumar and Others Vs. Mustaqim and Others](#), [Sushila Vs. IInd Addl. District Judge, Banda and Others](#), [Sarla Ahuja Vs. United India Insurance Company Limited](#), , [Rakesh Vij Vs. Dr. Raminder Pal Singh Sethi and Others](#), [Joginder Pal Vs. Naval Kishore Behal](#), 7 [S.P. Sethi Vs. R.R. Gulati and Others](#), , [Bal Kishan Vs. Harjit Kaur and Others](#), [Rakesh Kumar Vs. Joginder Singh](#), [Om Parkash Vs. Rangil Singh](#),

10. There is no dispute regarding the proposition laid down in the judgments referred to by the learned counsel for the petitioner, but the requirement has to be examined in each case according to the facts proved on record. The requirement of a landlord in respect of the premises in dispute does not fall in any straightjacket formula. The requirement of a landlord has to be examined keeping in view the facts of each case by taking into consideration the status of the family, the requirement pleaded and to find out whether the requirement is so fanciful, unimaginable or is mere excuse to seek ejectment of a tenant. In the present case, the petitioner is a tenant of a small portion of an otherwise small Booth. Admittedly, the landlord is doing business in the remaining portion of the Booth. The requirement pleaded is of a grown up son with a view to expand the business and to settle him in life. Thus, there is nothing to presume that it is a mere wish or desire of the landlord.

11. It is well settled and known fact that it is the natural desire of the parents to settle their children. Therefore, the ejectment sought by the landlord for the purposes of settling his son in the premises, the part of which is already in possession of the landlord cannot be said to be fanciful so as to return a finding that

the requirement pleaded lacks bona fide. Thus, I am of the opinion that the requirement pleaded cannot be said to be whimsical, which may warrant interference by this Court in exercise of its revisional jurisdiction.

12. Consequently, the present revision petition is dismissed. However, the order of ejectment shall not be executed for a period of three months from today.