

(2014) 07 P&amp;H CK 0801

High Court Of Punjab And Haryana At Chandigarh

Case No: CR No. 1851 of 2002 (O&amp;M)

Baldev Ram

APPELLANT

Vs

Ajmer Singh

RESPONDENT

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**Date of Decision:** July 17, 2014**Hon'ble Judges:** Mahesh Grover, J**Bench:** Single Bench**Advocate:** C.M. Munjal, Advocate for the Appellant**Final Decision:** Allowed

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### Judgement

Mahesh Grover, J.

There is no representation on behalf of the respondent. The petitioner/landlord impugns the orders of learned Rent Controller dated 7.9.2000 and that of the Appellate Court dated 25.2.2002. The petitioner who sought the eviction of the respondent-tenant from the demised premises which is a shop on the ground of personal necessity and non payment of rent and house tax. The only surviving question which remains to be adjudicated and was done so by the learned Rent Controller and the Appellate Court was the issue of personal necessity pleaded by the petitioner. The petitioner had set up a plea that he required the premises to set up a business for his son. Both the Rent Controller and the Appellate Court dismissed the petition essentially on the ground that since there was another shop available with the petitioner whose tenant had abdicated the premises and left it locked and the petitioner not having initiated proceedings against the said tenant, there was a presumption that the need was not bona fide.

2. On due consideration of the matter, I am of the view that reasoning adopted by the Courts below are erroneous and perverse. The settled proposition of law on the issue of personal necessity have been totally ignored by adopting such a reasoning. The Hon'ble Supreme Court in [Sarla Ahuja Vs. United India Insurance Company Limited](#), Hon'ble Supreme Court has held as under:-

The crux of the ground envisaged in clause (e) of Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bona fide. When a landlord asserts that he requires his building for his own occupation the Rent Controller shall not proceed on the presumption that the requirement is not bona fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona fide. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bona fides of the requirement of the landlord it is quite unnecessary to make an endeavour as to how else the landlord could have adjusted himself.

3. In [Shiv Sarup Gupta Vs. Dr. Mahesh Chand Gupta](#), the Apex Court, in a detailed judgment, while dealing with the personal need of a landlord, analysed the concept of bona fide requirement and said that the requirement in the sense of felt need which is an outcome of a sincere, honest desire, in contradistinction with a mere pretence or pretext to evict the tenant refers to a state of mind prevailing with the landlord and then it was observed that "the only way of peeping into the mind of the landlord is an exercise undertaken by the judge of facts by placing himself in the armchair of the landlord and the posing a question to himself-whether in the given facts, substantiated by the landlord, the need to occupy the premises can be said to be natural, real, sincere, honest? and if the answer be in positive, the need is bona fide."

4. In [Atma S. Berar Vs. Mukhtiar Singh](#), it has been held as under:-

Landlord is the best judge of his residential requirements. He has a complete freedom in the matter. It is no concern of the courts to dictate to the landlord how, and in what manner, he should live or to prescribe for him a residential standard of their own.

5. Once the petitioner has shown that the need for his son was bona fide, the Courts were only required to look into this aspect of the matter and test the genuineness of such a plea on the basis of the observations made by the Hon"ble Supreme Court, but the principal could not have been stretched to say that because the landlord has another shop and a cause against another tenant he could not invoke his right to get the demised premises vacated. Even if the landlord has two or three premises, it is his wish as to which premises he intends to use for the benefit of himself or his family members and the tenant cannot dictate terms to the landlord. Similarly, the Courts cannot substitute their own opinion in the place of the one expressed by the landlord. Such a course if adopted would naturally lead to frustrating the right of the landlord on a perception which has no foundations.

6. For the aforesaid reasons, present petition is accepted and the impugned orders are set aside.

7. Petition allowed.

8. Respondent is directed to be evicted from the premises in dispute.