

**THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

CR No. 4014 of 2009 (O&M)  
Date of decision: March 2, 2015

Jasmit Singh

...Petitioner

Versus

Ranjit Singh and another

...Respondents

**CORAM:- HON'BLE MR. JUSTICE K. KANNAN**

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Harkesh Manuja, Advocate,  
for the petitioner.

Mr. Munish Behl, Advocate,  
for the respondents.

**K. KANNAN, J. (Oral)**

1. The revision petition is at the instance of the tenant against whom eviction was sought on two grounds, namely, default in payment of rent and for bonafide requirement by the 1<sup>st</sup> petitioner and his son for establishing business. The 1<sup>st</sup> petitioner was stated to be in Calcutta and he wanted to come back and start his business with his son. The 2<sup>nd</sup> petitioner before the Rent Controller was the co-owner. The petition for eviction was dismissed holding that the personal necessity, as pleaded by the 1<sup>st</sup> petitioner before the Rent Controller, had not been established. The rent had been paid during the pendency of the proceedings before the 1<sup>st</sup> day of hearing and the ground of eviction for default of payment did not survive for adjudication.

requirement of his son the petition had been filed did not prefer an appeal. The 2<sup>nd</sup> petitioner, who was co-owner, alone filed the appeal and cited his co-owner as respondent. The tenant did not appear before the appellate authority. The appellate authority reversed the finding of the Rent Controller and found the personal necessity of the 1<sup>st</sup> petitioner as having been established.

3. The counsel appearing on behalf of the tenant points out that when the requirement spelt out was a proposal to commence business for his unemployed son and when the Rent Controller held that the necessity has not been established, he alone could be the person aggrieved and was competent to file an appeal under Section 15 (1) (g) (b) of the Punjab Rent Restriction Act, 1949. If he did not assail the finding and rest contended with merely a co-owner preferring the appeal, the decision cannot be reversed. The counsel points out that the personal requirement under the Act could be of himself or his son and when the 2<sup>nd</sup> petitioner alone was filing the appeal, he could not have urged that the property was necessary for his brother's son who is not a 'relative' within the definition of the Rent Act for whose benefit the eviction could be sought.

4. The learned counsel appearing on behalf of the landlord would argue that as a co-owner he was competent to prefer an appeal and the appeal being the continuance of the proceedings, his appeal must be taken for the benefit of the 1<sup>st</sup> petitioner whose requirement has already been set forth in the petition. The appellate authority was, therefore, competent to reverse the said decision.

5. Any co-owner can simply maintain a petition if he could spell out his own requirement. All the co-owners are not even necessary parties.

A petition can be at all times maintained by a co-owner on behalf of the another co-owner as well, but the condition will always be that the co-owner who files the petition should be competent to bring any one of the grounds available for eviction. In this case, the test will be, if the 2<sup>nd</sup> petitioner alone had filed a petition as a co-owner whether he could have maintained an action for ejection for a personal requirement of his brother or his son. If such a claim would not have been possible, although he was a co-owner, the same reasoning would apply to the appellate authority as well. The 2<sup>nd</sup> petitioner who had no requirement spelt out in the petition could not have successfully challenged the correctness of the decision without the 1<sup>st</sup> petitioner himself joining him in the appeal and pleading for reversal of that decision. The 1<sup>st</sup> petitioner was merely arrayed as the 3<sup>rd</sup> respondent and did not prosecute the appeal to seek for reversal of such finding.

6. I will hold the appeal itself could not have been entertained to consider the requirement of the 2<sup>nd</sup> petitioner's brother's son for the requirement in law by such exercise would not have been satisfied. The decision the appellate authority is erroneous.

7. The order of eviction is set aside and the revision petition is allowed.

**March 2, 2015**  
prem

**(K.KANNAN)**  
**JUDGE**