

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

**CR No.4892 of 2005 (O&M)
Date of decision: 9.12.2015**

Om Parkash (deceased) through his LRs

..... Petitioner

Versus

Jaspal Singh

..... Respondent

CORAM : HON'BLE MR.JUSTICE ARUN PALLI

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

Present : Mr. Rohit Ahuja, Advocate for the petitioner.

Mr. Ramandeep, Advocate for
Mr. R.S.Bajaj, Advocate for the respondent.

ARUN PALLI, J. (Oral)

Vide order being assailed, dated 8.11.2004, rendered by the Rent Controller, Jalandhar, eviction petition preferred by the landlord Om Parkash was accepted and the eviction of the tenant-respondent was ordered on account of his personal *bona fide* need. However, in an appeal preferred by the tenant, the order of eviction was set and the eviction petition was dismissed. The reasons recorded by the Appellate Authority in support of it's order read as thus:-

12.“How the further question arise, to meet out the above said ground, what is the evidence led by the landlord Om Parkash. Om Parkash himself stepped in to the witness box as PW1 and his examination-in-chief need not to be discussed which is not related to issue No.6-A (bonafide necessity) and in his examination-in-chief

whatsoever stated with regard to the said bonafide need is reproduced as under:-

“Due to my old age I am unable to go out side, that is why I want to run my business of shoes.”

In cross-examination Om Parkash deposed that I own two other shops also which are on rent @ Rs.1200/- and Rs. 800/- per month. I never issued any receipt to Karam Singh in lieu of the rent received. My house is constructed in 12 marlas which abuts two roads. On the one side there are three shops and on the other side (road) there is a gate to ingress and outgress. I am retired person I am not able to do any work. I am heart patient. My age is about 85/86 years. My physical position is very poor and I am dependent upon my progeny. He is being looked after by his son and his son takes him for treatment to the doctor. Besides the above discussed statement of the landlord there is no corroborative evidence on the file on behalf of Om Parkash. He has examined PW2 Dalip Singh, Draftman who has prepared the site plan Ex.P3 but the same is not helpful in anyway because the site plan does not bear his signatures nor was prepared at his instructions. It has come in the cross-examination of PW2 Dalip Singh, Draftsman that at the time of preparing the site plan Ex.P3 none was present at the spot. He also deposed that he did not talk to the respondent.

13. To rebut the evidence led by by the landlord respondent Jaspal Singh appeared in the witness box as RW1 who is the son of the deceased Karam Singh and he has also examined RW2 Piara Singh and RW3 Atma Ram. They both supported the averments made in the written reply filed by the respondent”.

Concededly, the case set out by the landlord in the ejectment

petition was that he required the demises premises i.e. a shop for his personal use and necessity as he intended to set up his own business. But in his examination-in-chief, he testified that due to his old age he was unable to go outside and that is why he wanted to set up a shoe business in the premises. He also admitted that he owned two other shops in the same local urban area, which were on rent @ ₹1200/- and ₹800/- per month respectively. Further, that he was a retired person and was not doing any work. He also conceded that his age was 85-86 years and he was a heart patient. And as his physical position was extremely poor, he was totally dependent on his family even to take him to a doctor. Unfortunately, during the pendency of the present revision petition, landlord Om Parkash had since passed away on 3.12.2007 and the matter is being pursued by his heirs. Concededly, no application was moved by his heirs to seek amendment in the eviction petition to plead their personal bona fide necessity. That being so, for the eviction was claimed by late Om Parkash to meet his personal, exclusive and individual need, in the wake of his death, even the alleged need lost its significance. Needless to assert, heirs of the deceased shall be free to file an eviction petition to meet their personal bona fide requirement, if there indeed is any.

That being so, no interference is warranted in exercise of revisional jurisdiction under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949. Petition being devoid of merit is, accordingly, dismissed.

December 9, 2015

Manoj Bhutani

**(ARUN PALLI)
JUDGE**