

Briefly stated, Pardeep Kumar Gupta had filed a petition for ejectment of respondents from the shop situated at Baan Bazaar, Near Old Sabzi Mandi, Patiala. The petition was filed on 10.6.2011. By way of amendment, the present revisionists want to plead that Shiv Kumar Gupta died during the pendency of the petition and that said Shiv Kumar Gupta was running the business of *bann* and

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nwara etc. The other shop adjoining the said shop where said Shiv Kumar Gupta was running his business has also become available to the present respondent. Therefore, the shop in dispute cannot be got vacated for personal use and occupation.

I have gone through the original rent petition as well as the impugned order and have also heard the learned counsel for the revisionists.

It comes out that said Shiv Kumar Gupta, uncle of respondent, died on 29.11.2013, The present application was filed on 8.9.2015 for amendment of the written statement. It is not denied that said Shiv Kumar Gupta has left behind a minor son, namely, Gaurav Gupta. Therefore, on the death of Shiv Kumar Gupta, his property and business will be inherited by the minor. The mere fact that the son of said Shiv Kumar Gupta is a minor does not mean that the landlord can avail the property left behind by his uncle. The minor son is to succeed his father, though, he may use his property through his guardian. Therefore, from its face, it cannot be said that the said property of the uncle of the landlord will be available to him for use and occupation, so as to exclude the rights of minor son of said Shiv Kumar Gupta and other family members. Therefore, the proposed amendment is unnecessary and will not effect the merits of the case. Secondly, the learned Rent Controller, Patiala, has rightly observed that the respondent has already closed the

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evidence and that the present revisionists now want to start de-novo trial. Since the present revisionists are working in a demised shop, therefore, on the death of Shiv Kumar Gupta, they might have immediately come to know of the same. They have filed an application after nearly two years, which shows their intention to delay the disposal of the matter. Even though, the present events are subsequent events, but these are not going to effect the merits of the case. Therefore, the amendment is un-necessary. As such, the reliance place upon the judgment of the Apex Court in Mohd. Ismail Versus Dinkar Vinayakrao Dorlikar, 2009 (4) RCR (Civil) 890 is not attracted in the present case.

The present revision is accordingly dismissed.

(KULDIP SINGH)
JUDGE

7.10.2015
sjks