



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

CR-4146-2015 (O&M)

Reserved on: 28-07-2025

Date of Pronouncement: 18-09-2025

SATISH KUMAR AND ORS.

.....Petitioners

VERSUS

RAMA SHANKAR

.....Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Prem Chand Yadav, Advocate and
Ms. Kuldevi Yadav, Advocate
for the petitioners.

Mr. Gopal Sharma, Advocate
for the respondent.

HARPREET KAUR JEEWAN, J. (Oral)

1. The petitioners-tenants have filed the present civil revision petition impugning the order of ejectment passed by the Appellate Authority, Rewari vide order dated 13.03.2015 whereby, the appeal filed by the respondent-landlord was allowed and the order passed by the Rent Controller was set aside.

2. As per the brief facts, the respondent Rama Shankar (hereinafter referred as landlord) filed an ejectment petition seeking ejectment of the petitioners Satish Kumar, Saroj Bala and Banwari Lal on

the ground of non-payment of arrears of rent, personal necessity and subletting. It is pleaded that Satish Kumar, petitioner No.1 is a tenant in the shop in question on the basis of Rent Note dated 14.03.1980, executed between the petitioner No.1 Satish Kumar and Matadeen i.e. father of the respondent. Initially, the rate of rent was Rs.225/- per month plus House Tax. However, the fair rent of the demised shop in question was fixed as Rs.5324/- per annum in a petition filed for fixation of the rent. It is further pleaded that the respondent No.1/appellant-Satish Kumar had sublet the premises and handed over the shop in question to petitioner/respondents No.2 and 3 without the consent of the landlord.

2.1 Upon notice, respondents No.1 to 3-appellants contested the petition of the Rent Controller and framed the following issues:-

“(1) Whether the respondents are liable to be ejected on the grounds mentioned in para No.4(a) to (c) i.e. for non-payment of rent personal necessity and sub letting as alleged? OPA

(2) Whether the petitioner has filed the petition with a mala fide intention so not maintainable? OPR

(3) Whether the eviction petition is liable to be dismissed on the grounds of partial eviction as alleged? OPR

(4) Whether the respondent has made a valid receipt of arrears of rent, house tax and electricity charges etc. as alleged? OPR

(5) Relief.”

2.2 Both the parties led their respective evidence.

2.3 The Rent Controller dismissed the petition. Thereafter, the respondent-landlord filed the appeal and by passing the impugned order, the appellate authority reversed the findings on issue of personal necessity and

subletting while deciding the same in favour of the respondent-landlord. While setting aside the order passed by the Rent Controller, ejectment order was passed in favour of the respondent-landlord while deciding the same in favour of the respondent-landlord.

3. While deciding the issue regarding personal necessity in favour of the landlord, the appellate authority observed that on the basis of the site plan Ex.AW2/A, it cannot be assumed that the landlord has other sufficient accommodation for starting the business of General Merchant. It was observed that the shop in question is part of the property bearing No.3029/2A, which was earlier owned by Matadeen and respondent No.1/appellant No.1 Satish Kumar was a tenant under Matadeen. After the death of Matadeen, the property was inherited by the legal heirs on the basis of a decree passed by the Court whereby, three shops were transferred in favour of Parveen Kumar, Yogesh Kumar and Arvind Kumar, who are the sons of the appellant/ Ram Shankar-respondent landlord.

4. While discussing the family settlement *inter se* Ram Shankar-respondent landlord and his sons, the Appellate Authority observed that the tenant cannot challenge the family settlement and the Civil Court decree, whereby, the properties were transferred in favour of the landlord and his sons.

5. The Appellate Authority concluded that the landlord does not possess any other shop in the city of Rewari. The shop in question is situated adjacent to the house of the landlord therefore, it is best place to start the business of the General Merchant. The landlord is the best judge of his requirements as such, the appellate authority held that the need of the landlord is *bona fide*.

6. The learned counsel for the petitioners contends that the findings of the appellate authority are not based on the facts and the evidence brought on record. The Appellate Authority failed to consider that the landlord has himself alleged that he is suffering from various ailments and as per his allegations, he is unable to work as a Muneem. In case, he is suffering from such ailments, his need is not *bona fide* as he was not fit to run a business. There is no evidence on record to show the number of dependent family members of the landlord. The need projected by him to run a business is not bona fide.

7. It is further contended that there is no evidence of resources available with the landlord to run the business. Reliance has been placed upon the judgment of this Court in ***Santokh Singh and anr. Vs. M/s Sat Pal Jayanti Pershad 1981 (1) RCR (Rent) 465.***

8. Learned counsel for the appellant contends that mere wish of the landlord is not enough and the landlord has to show that there was an element of need and that the landlord is in position to procure necessary resources for running the said business.

9. On the said issue of subletting, learned counsel for the appellant contends that the business of STD/PCO was run by the wife of the petitioner No.1 as such, there was no question of subletting and reliance in this regard has been placed by the Hon'ble Apex Court in ***Krishnawati Vs. Hans Raj AIR 1974 SC 280.***

10. On the other hand, learned counsel for the respondents referring to the reasons recorded by the appellate authority, submitted that the ejectment order has rightly been perused.

11. I have considered the aforesaid submissions and perused the paper-book.

Personal Necessity:

12. The relationship between the landlord and the tenant-appellant No.1 Satish Kumar and respondent-Rama Shankar is not disputed. The landlord has sought ejectment of the tenant on the ground of personal necessity. The landlord had pleaded that he is unable to work as a Muneem as he is suffering from various ailments, he is 45 years of age, as such, he wants to run his own business in the shop in question under the trade General Merchant. It is further pleaded that his house is situated at the backside of the shop in question as such, the shop is fit for running the said business.

13. The appellant-tenants have contested the present petition with the pleadings that the shop in question is not required by the landlord for his personal necessity; the petition has been filed just to eject the tenant; landlord is not ill; and the landlord is owner of several other properties situated in the city Rewari and the said properties can be commercially used by the landlord.

14. The Appellate Court had observed that a tenant cannot challenge the family settlement and transfer of all other properties by the landlord to his sons on the basis of a court decree and the family settlement.

15. Learned counsel for the petitioner has contended that the question of bona fide necessity is not proved on record in view of the various ailments pleaded by the petitioner. The said argument does not lie in the mouth of the appellant since in the written statement, it has been pleaded

by the tenant that the landlord is not ill and he has filed the petition only for the purpose of seeking ejectment of the tenant.

16. Even otherwise, the landlord was 45 years of age at the time of filing of the present petition in the year 2015. He has alleged that he is working as a Muneem and he wants to start his own business by running a shop of General Merchant.

17. Keeping in view the age of the landlord at the time of filing of the present petition and his occupation at that time, his intention to start his own shop of a General Merchant, cannot be doubted especially in view of the fact that the shop in question is situated adjoining to the house owned by the landlord.

18. In such age, a wish of a landlord to start his own business is not merely a wish. The tenant had failed to prove that landlord was having any other shop in his possession within the concerned municipal limits. The tenant had also failed to show that the landlord had vacated any such commercial property before filling the present petition. In such circumstances, the appellate authority has rightly held the necessity of the landlord is *bona fide* and genuine.

19. The learned counsel for the appellant has misplaced the reliance on the judgment of this Court in *Santokh Singh's case (supra)*. In the said case, the landlord was running a business in Behrain but he had not acquired the citizenship of that country and he pleaded the requirement of the premises and wished to start a similar business for his son. The requirement was held *bona fide*. As such, the order of the appellate authority was set aside and the ejectment order passed by the Rent Controller was restored.

Sub-letting:

20. On the issue of sub-letting, the First Appellate Authority gave the following observations:-

“XXX.....Therefore one thing is clear that respondent No.1 Satish Kumar had allowed his wife Saroj Bala to run the business of STD/PCO in one portion of his shop and a specific area of the shop was converted into the shape of cabin for running the business of STD/PCO. Therefore, it is clear the possession of the cabin in which the STD/PCO was being run was given by respondent No.1 in favour of respondent No.2 without the consent of the landlord. As separate portion was converted into the shape of cabin and this fact has been admitted by respondent No.1.....XXX”

“XXX..... As such, it is clear that the respondent No.2 remained in exclusive possession of the specific portion of the tenanted premises and she was running the business of STD/PCO and as such proving of consideration between husband and wife is not a sine qua non for proving the sub-tenancy. The authorities relied upon by the learned counsel for the respondents are not applicable to the facts of the present case. Therefore, appellant is entitled for ejectment on the grounds of bona necessity and subletting....XXX.”

21. The ejectment of the tenant was also sought on the ground of subletting pleading that Smt. Saroj Bala i.e. appellant No.2 had opened an STD/PCO in one portion of the shop. The telephone connection was obtained by appellant No.2 in her name, which is being run by her in the said shop and as such, the tenant had handed over exclusive possession of a portion of the shop to appellant No.2.

22. I have considered the pleadings of the parties and the observations made by the appellate authority.

23. This is not disputed that Satish Kumar i.e. appellant No.1 is the tenant and Smt. Saroj Bala is wife of appellant No.1. It is also not disputed

that both the husband and wife are living in one house as such, they are the members of one family. The appellate authority failed to notice the judgment of Hon'ble Apex Court in ***Krishnawati's case (supra)***. In the said case, the premises were taken on rent by the appellant. The ejectment was sought on the ground of sub-letting alleging that the appellant had sublet the premises to one Sohan Singh, who was running the business in the shop. The Hon'ble Apex Court observed that the appellant and Sohan Singh were living as husband and wife to the knowledge of the respondent; from the time of sub-letting the shop, the business was being carried out by Sohan Singh with the occasional help of the appellant. The finding of the learned Rent Controller that it was not a case of sub-letting, was upheld by the Hon'ble Apex Court on the ground that it is merely a factual common sense inference.

24. Similarly, the Hon'ble Apex Court in ***M/s Shalimar Tar Product Ltd. Vs. H.C Sharma and ors. 1987 (2) RCR 671 SC***, held that there is no dispute in the legal proposition that there must be parting of the legal possession. Parting of the legal possession means possession with right to include and also right to exclude others.

25. In view of the ratio of the said decision, working of wife in part of a premises for running STD/PCO, cannot be held to be subletting.

26. In view of the reasons recorded above, the findings arrived at by the appellate authority on the question of subletting, are liable to be reversed and it is held that the landlord has failed to prove the ground of subletting as such, not entitled to ejectment of the tenant on this ground.

27. The present revision petition is accordingly partly allowed. The findings of the appellate authority on the ground of issue of personal

necessity are upheld however, the findings of the appellate authority on the issue of subletting are reversed.

28. The landlord is entitled to the vacant possession of the shop in question on the ground of personal necessity.

29. Pending miscellaneous applications, if any, shall stand disposed of.

18-09-2025
Sapna Goyal/Simran

(HARPREET KAUR JEEWAN)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO