

2026 PHHC 014820

**124+242****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****CM-25346-CII-2025 IN/AND CR-3695-2015****Date of Decision: February 02, 2026****SUBHASH CHANDER**

.....Petitioner

Versus

SURINDER KUMAR

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Kabir Sarin, Advocate for the petitioner.

Mr. Naveen Batra, Advocate for the respondent.

HARKESH MANUJA, J. (ORAL)**CM-25346-CII-2025**

This is an application for bringing on record the legal heirs of applicant/petitioner who has unfortunately died.

For the reasons mentioned in the application, the same is allowed, subject to all just exceptions and the applicants as mentioned in paragraph 2 of application are ordered to be impleaded as legal representatives of deceased-Subhash Chander-petitioner.

Amended memo of parties be taken on record.

MAIN CASE

1. By way of present revision petition, challenge has been laid to judgments dated 22.11.2011 and 27.05.2015 passed by the Authorities below whereby, an eviction petition preferred at the instance of deceased-landlord was allowed.
2. Briefly stating, the dispute relates to one shop comprised in property bearing No.B-II-S-44/24 situated at Kotwali Bazar, Hoshiarpur which was purchased by the respondent-landlord vide registered sale

deed dated 14.09.1968. Admittedly, the respondent was living at Ahmedabad in relation to his employment and the possession of the shop in dispute was handed over to his brother-petitioner. The respondent retired from service on 28.02.1998 and intended to shift to Hoshiarpur for setting up of his own business. Accordingly, a suit for mandatory injunction was filed at the instance of respondent against the petitioner. The said suit was dismissed vide judgment and decree dated 01.09.2008 on the ground that there was a relationship of landlord and tenant between the parties.

3. Faced with this, the respondent immediately on 27.11.2008 filed an eviction petition against the petitioner-tenant(brother) while claiming his *bona fide* need *qua* the demised shop. It was pleaded that since the respondent-landlord intended to shift to Hoshiarpur along with his wife, he wanted to setup his own business of auto parts and as such, the demised shop was required for his personal *bona fide* need.

In response, the eviction petition was contested by the petitioner-tenant having disputed and denied the alleged need of the respondent-landlord.

4. The learned Rent Controller vide its decision dated 22.11.2011 passed an eviction order against the petitioner while holding that the demised shop was required for the *bona fide* need and occupation of the respondent-landlord as well as for the *bona fide* requirement of his son.

Aggrieved thereof, the petitioner preferred rent appeal, however, the same came to be dismissed by the learned Appellate Authority at Hoshiarpur vide its decision dated 27.04.2015, hence the present revision petition.

5. Impugning the aforementioned order passed by authorities below, learned counsel for the petitioner submits that during pendency of the present revision petition, respondent-landlord died on 26.06.2016 and as such, the eviction petition preferred at the instance of respondent-landlord became infructuous as the only pleading therein was about his own *bona fide* requirement. He points out that the *bona fide* need of any of his sons was never pleaded by the respondent-landlord in the eviction petition. Learned counsel thus submits that respondent-landlord having died on 26.06.2016 during pendency of the present revision petition, the cause of action for *bona fide* need ceased to exist. In support, learned counsel for the petitioner places reliance upon the decision rendered by the Hon'ble Apex Court in “**Seshambal (Dead) Through LRs Vs. Chelur Corporation Chelur Building and Others**” reported as **2010 LawSuit(SC) 55**. Relevant paragraph No.9 thereof is extracted hereunder for reference:-

[9] It is not in dispute that in the eviction petition the owners had pleaded their own requirement for the premises to be occupied by them for residential as well as commercial purposes. The eviction petition was totally silent about the requirements of any member of the family of the owners-petitioners leave alone any member of their family who was dependant upon them. That being so the parties went to trial before the Rent Controller on the basis of the case pleaded in the petition and limited to the requirement of the owners for their personal occupation. Neither before the Rent Controller nor before the Appellate Authority was it argued that the requirement in question was not only the requirement of the petitioner-owners of the premises but also the requirement of any other member of their family whether dependant upon them or otherwise. Not only that, even in the petition filed before this Court the requirement pleaded was that for the deceased-widowed owner of the demised premises and not of any member of her family. Super added to all this is the fact that the legal representatives who now claim to be the family members of the deceased are all married daughters of the

deceased couple each one settled in their respective matrimonial homes in different cities and at different places. That none of them was dependant upon the deceased- petitioner is also a fact undisputed before us. Even otherwise in the social milieu to which we are accustomed, daughters happily married have their own families and commitments financial and otherwise. Such being the position we find it difficult to see how the legal representatives of the deceased-appellant can be allowed to set up a case which was never set up before the Courts below so as to bring forth a requirement that was never pleaded at any stage of the proceedings. Allowing the legal heirs to do so would amount to permitting them to introduce a case which is totally different from the one set up before the Rent Controller the Appellate Authority or even the High Court. The position may indeed have been differentiated if in the original petition the petitioner-owners had pleaded their own requirement and the requirement of any member of their family dependant upon them. In such a case the demise of the original petitioners or any one of them may have made little difference for the person for whose benefit and bona fide requirement the eviction was sought could pursue the case to prove and satisfy any such requirement.

He also points out that the aforesaid decision was relied upon by this Court in “***Hari Ram Bedi (Deceased) Vs. Ram Lubhaya***” reported as **2015 LawSuit(P&H) 815** dated 12.02.2015.

Learned counsel also submits that once there was no pleadings in the eviction petition as regards the *bona fide* needs of any of the two sons of respondent-landlord, with his unfortunate demise, no cause of action survived and the eviction petition was therefore, liable to be dismissed and the present revision petition needs to be allowed.

6. On the other hand, learned counsel for the respondent-landlord submits that though, there was no pleading in the eviction petition as regards the *bona fide* need of either of the two sons, yet, the eviction petition preferred at the instance of respondent-landlord merely

on account of his demise during the pendency of present revision petition on 26.06.2016 could not be dismissed as the Courts need to take into account the cause of action as on the date of filing of eviction petition and not subsequent thereto. In support, he places reliance upon decision rendered by the Hon'ble Supreme Court in ***"Shantilal Thakordas Vs. Chimanlal Maganlal Telwala"*** reported as ***1976 RCR(Rent)828*** as well as judgments passed by this Court in ***"Darshna Devi Vs. Kewal Krishan"*** reported as ***2015(4) RCR (Civil)230***, ***"M/s. Gagan Traders and Anr. Vs. Jaspreet Singh and Anr."*** reported as ***2010(1) RCR (Rent) 521***, ***"B.D. Ohri and Others Vs. Deepak Sohi and Others"*** reported as ***2014(2) RCR (Rent) 316***, ***"Amrik Singh and Another Vs. R.R. Gulati and Others."*** reported as ***2012(1) RCR (Rent)25***.

7. I have heard learned Counsel for the parties and gone through the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

8. A perusal of the record shows that both the learned authorities below have recorded a concurrent finding of the fact to the effect that the respondent-landlord who happened to retire on 28.08.1998, possessed knowledge regarding auto parts and intended to settle at his parental place i.e. Hoshiarpur, with the objective of establishing his own auto-parts business so as to sustain himself and also to remain busy. It has also come on record that the respondent-landlord was not a pensioner. In such circumstances, wherein it has been recorded that the respondent-landlord was a retiree and not a pensioner, it can be safely concluded that he was in genuine and *bona fide* need of the demised premises for the purpose of establishing his own business

as an entrepreneur, with the intention of permanently settling at Hoshiarpur and also for his sustenance.

In such circumstances since the *bona fide* need of the landlord is not in question and is duly established, the only limited question of law before this Court is *whether the death of the landlord during the pendency of the present revision in rent proceedings would lead to vitiating his bona fide need?*

This question has been duly deliberated upon and answered by the Hon'ble Apex Court in catena of judgments holding that in the rent matters, the *bona fide* need of the landlord has to be seen on the date of filing of the petition itself and the subsequent events like death of the landlord during the pendency of appeal cannot be held to have vitiated the need of the landlord. The reliance is placed on the decision titled ***Kamleshwar Prasad v. Pradumanju Agarwal***, reported as **1997(1) RCR (Rent) 591 (SC)**, wherein the Hon'ble Apex Court has held that the crucial date normally is the date of filing the petition. In that case, a two-Judge Bench has held that even the subsequent event of death of the landlord who wanted to start a business in the tenanted premises is not sufficient to dislodge the *bonafide* need established by him earlier. The relevant portion thereof is extracted hereunder:-

"That apart, the fact that the landlord needed the premises in question for starting a business which fact has been found by the appellate authority, in the eye of law, it must be that on the day of application for eviction which is the crucial date, the tenant incurred the liability of being evicted from the premises. Even if the landlord died during the pendency of the writ petition in the High Court the bonafide need cannot be said to have lapsed as the

business in question can be carried on by his widow or any other son."

The same principle was further reiterated in **Gaya Prasad v. Pradeep Srivastava**, reported as **2001(1) RCR (Rent) 221** wherein it was held that:

"11. We cannot forget that while considering the bonafides of the need of the landlord the crucial date is the date of petition. In Ramesh Kumar v. Kesho Ram, 1992 Suppl.(2) SCC 623 : 1992(1) RCR (Rent) 370 a two-Judge Bench of this court (M.N. Venkatachalia, J., as he then was, and N.M. Kasliwal, J.) pointed out that the normal rule is that rights and obligations of the parties are to be determined as they were when the lis commenced and the only exception is that the court is not precluded from moulding the reliefs appropriately in consideration of subsequent events provided such events had an impact on those rights and obligations. What the learned Chief Justice observed therein is this:

"The normal rule is that in any litigation the rights and obligations of the parties are adjudicated upon as they obtain at the commencement of the lis. But this is subject to an exception. Wherever subsequent events of fact or law which have a material bearing on the entitlement of the parties to relief or on aspects which bear on the moulding of the relief occur, the court is not precluded from taking a 'cautious cognizance' of the subsequent change of fact and law to mould the relief."

9. In view of the aforesaid discussion, it is well-settled principle of law that the general rule is that the rights and obligations of the parties are to be determined as they were when the lis commenced. Though the subsequent events can be taken into account by the Courts but it would differ from case to case. In the present case, mere fact Surinder Kumar, respondent-landlord died on 26.06.2016, during the pendency of the

present revision petition would not mean that the case set up by him in his eviction petition which was preferred on 11.10.2008 i.e. around eight years prior to his death, would not survive. Such interpretation of law cannot be allowed by any stretch of imagination because if the subsequent events like death of the landlord are considered at every stage till the decree attains finality, litigation would never fructify. By the time a second appeal is decided by the High Court, a long time usually passes. If the landlord at whose instance the case was filed dies during this period, the case would have to be dismissed without deciding it on its merits. The same situation could arise again if the heirs file a fresh case, turning the matter into an endless process.

Considering these subsequent events can sometimes render the entire legal process infructuous and result in a huge waste of public time, therefore, the Rent Control legislation cannot be interpreted in this way. As much as the main purpose of Rent laws is to protect tenants from unfair landlords; under the garb of protecting the tenants, these laws cannot be colored to permanently deprive property owners of their rights. The Courts are conscious of the aforesaid adverse ramifications of such interpretation as reflected in the latest decision titled ***D. Sasi Kumar v. Soundrarajan*** reported as **(2019) 9 SCC 282** by the Hon'ble Apex Court whereby it was held that:-

“11. Further the High Court has also erroneously arrived at the conclusion that the bonafide occupation as sought should be not only on the date of the petition but it should continue to be there on the date of final adjudication of rights. Firstly, there is no material on record to indicate that the need as pleaded at the time of filing the petition does not subsist at this point. Even otherwise such conclusion

*cannot be reached, when it cannot be lost sight that the very judicial process consumes a long period and because of the delay in the process if the benefit is declined it would only encourage the tenants to protract the litigation so as to defeat the right. In the instant case it is noticed that the petition filed by the landlord is of the year 2004 which was disposed of by the Rent Controller only in the year 2011. The appeal was thereafter disposed of by the Appellate Authority in the year 2013. The High Court had itself taken time to dispose of the Revision Petition, only on 06.03.2017. The entire delay cannot be attributed to the landlord and deny the relief. If as on the date of filing the petition the requirement subsists and it is proved, the same would be sufficient irrespective of the time lapse in the judicial process coming to an end. This Court in the case of **Gaya Prasad v. Pradeep Srivastava, (2001) 2 SCC 604** has held that the landlord should not be penalised for the slowness of the legal system and the crucial date for deciding the bonafide requirement of landlord is the date of application for eviction, which we hereby reiterate.”*

The Hon'ble Apex Court has also cautioned about taking the subsequent events into account while deciding the rent petitions. The three-Judge Bench in ***Pasupuleti Venkateswarlu v. The Motor & General Traders*** reported as **(1975) 1 SCC 770** held that in rent cases, subsequent events may have to be taken into consideration provided the rules of fairness to both sides are scrupulously obeyed. The relevant paragraph is extracted hereunder:-

“First about the jurisdiction and propriety vis a vis circumstances which come into being Subsequent to the commencement of the proceedings. It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding. Equally clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the lis has come to court and has a

fundamental impact on the right to relief for the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision or fairplay is violated, with a view to promote substantial justice--subject, of course, to the absence of other disentitling (actors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial Court. If the litigation pends, the power exists, absent other special circumstances repelling resort to that course in law or justice. Rulings on this point are legion, even as situations for applications of this equitable rule are myraid. We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the court can, and in many cases must, take cautious cognisance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed."

10. Therefore, keeping in mind the principles discussed above and the facts of the case, this Court does not find any reason to deviate from the general rule that the rights and obligations of the parties are to be determined as they were when the *lis* commenced, in the case in hand. Thus, death of Surinder Kumar, respondent-landlord during pendency of judicial proceedings shall not have any impact on his *bona fide* requirement for the reason that the said requirement has to be seen with reference to the date of initiation of eviction proceedings and as discussed herein, the same has been duly established from the concurrent findings of the Authorities below. Therefore, this Court does not find any merits in the argument presented by the counsel for the petitioner *qua* the necessity of the landlord ceasing to exist upon his death.

11. Further, with due respect to the law laid down in **Seshambal** (supra) case, the same is not applicable in the factual matrix of the present case in the humble opinion of this Court. Though admittedly, a perusal of eviction petition reflects that only need pleaded therein was with respect to the respondent landlord and not about either of his two sons but the Authorities below have observed that apart from the landlord's own *bona fide* need of establishing a business, the demised premise was also required for his two sons as well. The said finding has been duly recorded in the decisions of the Authorities below. In **Seshambal** (supra) case the *bona fide* need of any member of the landlord never came forth at any point of time during the proceedings as all the three daughters of the deceased-landlord were married. However, the present is a case where the deceased-landlord-respondent had two sons, both can always utilize the subject property for themselves as duly recorded by both the authorities below. Moreover, there was no occasion for the deceased-respondent to have pleaded the need of his two sons at the time of filing of eviction petition and the same being born out from the subsequent event of his death was rightly appreciated by the authorities below. Thus, the ratio therein cannot be applied in the case in hand, and the rightful owners cannot be deprived of their rights qua the property. Consequently, this Court is of the view that no interference is warranted with the decisions of the Authorities below.

12. In view of the aforesaid facts and circumstances, finding no merit in the present revision petition, the same is thus, dismissed.

13. Pending applications if any shall also stand disposed of.

02.02.2026

Tejwinder

(HARKESH MANUJA)

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>