

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

146

CR No.6098 of 2025 (O&M)

DATE OF DECISION: 02.02.2026

ASHOK

.... Petitioner

Versus

NAND KISHORE

.... Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Sunil Bhardwaj, Advocate,
for the petitioner.

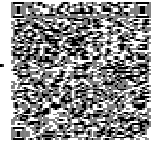
Mr. Alok Mittal, Advocate,
for the respondent.

* * * *

DEEPAK MANCHANDA, J.

1. The present revision petition has been filed challenging the judgment dated 28.07.2025 passed by the learned Appellate Authority, Bhiwani, whereby the judgment dated 30.10.2019 passed by the learned Rent Controller, Bhiwani, has been reversed.

2. The brief facts emanating from the pleadings of this petition are that the petitioner is the tenant in the shop in question which has been stated to be sold to the respondent and his brother, namely Sanjay Kumar by one Dr. Baijnath in equal share by virtue of sale deed No.19435 dated 30.08.1996. Subsequently, the half share owned by the brother of the respondent was also transferred to the respondent vide deed No.7129 dated 30.10.2014. The respondent sought ejectment of the petitioner on the ground of non-payment of arrears of rent amounting to Rs.437.50 for the period from 01.07.2017 to 31.07.2017, which, despite repeated demands, had not been paid. The second ground raised by the respondent is that the said shop is required for his son to start a new

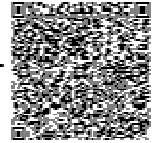


separate business. The said petition was dismissed vide judgment dated 30.10.2019 passed by the learned Rent Controller, Bhiwani. Aggrieved thereby, the respondent preferred an appeal before the learned Appellate Authority, Bhiwani, bearing RA-23-2019. The learned Appellate Authority reversed the findings of the learned Rent Controller and allowed the appeal on the ground of bona fide necessity, directing the petitioner-tenant to hand over vacant and physical possession of the shop in question to the respondent-landlord within a period of two months from the date of judgment dated 28.07.2025.

3. Heard.

4. The relevant findings recorded by the learned Rent Controller, Bhiwani vide judgment dated 30.10.2019 are reproduced hereinbelow:

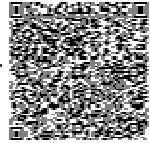
“11. The present petition has been filed by the petitioner for eviction of the respondent on the grounds of arrears of rent for one month from 01.07.2017 to 31.07.2017 and personal necessity. As regard the first ground of arrears of rent of one month is concerned, the petitioner has failed to prove this ground as no sufficient evidence has been led by the petitioner to prove as to what is the exact rate of rent and that respondent has not paid the rent despite demand. The petitioner has claimed the rate of rent as Rs.437.50 per month, whereas regarding another shop, which is adjacent to the demised shop and is occupied by Radhey Shyam RW2, in the cross-examination of RW2 Radhey Shyam, a question was put by learned Counsel for the petitioner about the rate of rent and in reply to that question RW2 Radhey Shyam



stated that it was Rs.165/- per month when the shop was purchased by the petitioner and for the last six-seven years the rate of rent is Rs.265/-. But regarding the demised shop, the petitioner has failed to prove to as to what is exact rate of rent and that the respondent is in arrears of rent from 01.07.2017 to 31.07.2017 and that he has not paid the same despite demand and opportunity to pay as the alleged arrear is only for one month from 01.07.2017 to 31.07.2017 and the present petition was filed on 31.07.2017 itself. In absence of sufficient evidence qua the fact that the respondent has not paid the rent despite effective opportunity, therefore, the respondent cannot be evicted on this ground.

12. As regards the second ground of personal necessity is concerned, a perusal of cross-examination of the petitioner Nand Kishore (PW2) shows that he has admitted in his cross-examination that it is correct that he alongwith his son Amit are working together in the another shop for the last 10 years. Amit Kumar son of Nand Kishore (PW3) has also admitted in his cross-examination that he has done B.Com in year 2002-03 and after doing B.Com, he started doing work alongwith his father and doing work for the last 15 years in another shop with his father. These admission in the cross-examinations of both the witnesses show that the need of the petitioner is not bonafide rather he has made a story just to create a ground for eviction of the demised shop.

Further, a perusal of site plan P1 shows that the other shop which is adjacent to the demised shop and is under the tenancy of Vishnu Kumar is also the property of petitioner. In his cross-



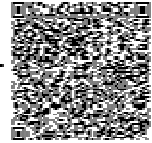
examination, son of the petitioner namely Amit Kumar PW3 has categorically admitted that it is correct that the shop of Vishnu Kumar, tenant is bigger than the demised shop and that shop which is under tenancy of Vishnu Kumar is adjacent to the shop in which the petitioner is doing the business, but the petitioner has not taken any action for eviction of that shop, which is under the tenancy of Vishnu Kumar.

13. Thus, the need of the petitioner is not bona fide rather the petitioner has filed the present petition just to make a ground for eviction of the demised shop and is not entitled to any relief.

However, the contention of learned Counsel for the respondent that petition is bad for want of necessary particulars of Section 13(3) (a) of the Haryana Urban Control of Rent & Eviction Act, 1973, is totally wrong because a perusal of petition shows that in para no.6 of the petition the mandatory particulars have been mentioned by the petitioner and in that respect the authority titled Shankar Lal and others Versus Madan lal and others(supra) relied upon by learned Counsel for the respondent is not applicable to the facts of this case.

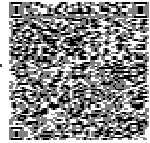
But as discussed above, the petitioner has failed to prove his case, thus he is not entitled to the relief claimed. Hence, this issue is accordingly decided against the petitioner and in favour of the respondent.”

5. The relevant findings recorded by the learned Appellate Authority, Bhiwani vide judgment dated 28.07.2025, are reproduced hereinbelow:



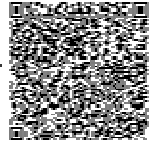
“9. It is the landlord who has to choose to get vacated the shop under bonafide need from tenants and so tenant cannot dictate to get evict the shop against another tenant Radhey Shyam, who has also appeared as RW2, and so entire cross-examination of PW2 could not rebut the plea taken in the petition with regard to bonafide need of shop in question to run the business for his son and as such testimony of PW2 is found sufficient to prove bonafide personal need of shop in question to run the business for his son in the shop in question.

10. Coming to next question with regard to appreciation the evidence of PW3 Amit Kumar (son of appellant), who tendered affidavit Ex.PW3/A, wherein, he categorically stated that he is in bonafide need of shop in question to run his business being married, and due to his temperamental differences, with his father (appellant), he has been residing separately in rented house No.1174, Sector-13, HUDA, Bhiwani for the last 5-6 years. He does not have any business, rather he works in the business of his father and is completely dependent upon his father. He wants to run his business in the shop in question independently so that he may not depend upon his father. In addition to that, expenses incurred for two families are not sufficient from one shop and further his business style is also different from the business style of his father and so there always arose dispute time and again between him and his father, and so he wants to run his business independently. It has also come in his cross-examination that he passed B.Com in the year 2002-03 from Vaish

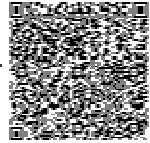


College, Bhiwani and started sitting in the shop after completing his B.Com and also started doing the work of accountant. It is correct that he has been working with his father for the last 15 years. It is also correct that shop is double storey, but the business is carried in the shop of ground floor, whereas upper floor is used as godown. His father is running retail shop with GST number in the name and style of 'Roop Sarees Centre'. The shop is situated in Bichla Market, Bhiwani, which is a Cloth Market. 2-3 employees work in the shop and daily sale is around Rs.9-10 thousands. His father files ITR. His income is not taxable, rather his father's income is taxable and his father pays income tax of around Rs.1-2 thousand. The Ld Rent Controller has recorded findings in impugned judgment that shop of Vishnu Kumar is bigger than shop of Ashok Kumar (respondent-tenant), but Vishnu Kumar has become absolute owner of his shop by dint of sale deed dated 16.06.2003 (Ex.P5) and so if Vishnu Kumar had occupied bigger shop than the shop in question, it would not draw any adverse inference to say that shop in question is not required under bonafide need, for his son who wants to run business independently and as such, nothing substantial could be elicited from cross-examination of PW3 which may disbelieve the plea of bonafide need of shop in question.

11. It is further made clear that RW1 (tenant) has admitted in cross-examination that Nand Kishore (appellant) had purchased the shop in question in the year 1996 from Dr. Baijnath. Nand Kishor had filed eviction petition in the year 1998, in



which, he had compromised. When Nand Kishore had purchased the property shown in Ex.R1, at that time, Vishnu Kumar was tenant and he got executed the sale deed relating to shop, at point-P in the year around 1998. It is correct that shop of Radhey Shyam is of small size as compared to his shop, which is around 1-1½ feet in size. He did not know whether Amit Kumar and his father are living jointly. He took simple plea that Amit Kumar is doing work in the shop of his father and this plea is also taken in the petition by the appellant, but RW1 could not rebut the plea about bonafide need of shop in question to run business of his son in the shop in question and so testimony of RW1 failed to prove that it was mere wish to evict the shop in question by appellant. Further, respondent-tenant has also examined RW2 Radhey Shyam, other tenant in another shop, who tendered affidavit Ex.RW2/A, supporting the plea of RW1, but his testimony could not rebut the plea of bonafide need of shop in question by appellant to run business of his son, and as such, testimonies of RW1 and RW2 are not found sufficient at all to rebut the plea of appellant of bonafide need of shop in question to run business for his son. In this way, it may safely say that appellant has duly established bonafide personal necessity of the shop in question for running the business of his son therein. It is nowhere inferred from the evidence that it was a mere wish of appellant to vacate the shop in question from the respondent-tenant. The facts involved in this rent petition are also fortified with case laws as relied and highlighted as under;



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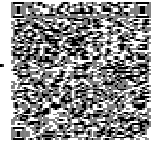
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13. Looking into the entire factual and legal aspects, it may safely say that Ld Rent Controller fell in error while appreciating the entire evidence led by parties in recorded findings under issue No.1 and as such finding recorded under issue no.1 is reverted, by deciding in favour of appellant-landlord. Further findings on issues No.2 to 5 'being not pressed' shall remain as it is. Resultantly, impugned judgment would suffer from infirmity, irregularity, illegality, and as such same being unsustainable is set aside, by allowing the rent petition in favour of appellant-landlord on the ground of bona fide necessity.

14. In the light of foregoing discussion emanating from record, instant rent appeal is hereby allowed with cost, on the ground of bona fide necessity, directing respondent-tenant to hand over the vacant physical possession of the shop in question to the appellant-landlord, with in a period of two months from the date of passing this judgment respectively.”

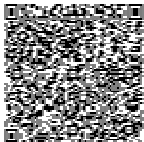
6. A perusal of the judgment dated 30.10.2019 passed by the learned Rent Controller would show that the issues were framed vide order dated 14.05.2018 wherein the first issue framed was whether the tenant is liable to be evicted from the premises in question on the grounds mentioned in the petition. Two grounds for eviction were taken, namely, personal necessity and non-payment of arrears of rent. The learned Rent Controller, vide judgment dated 30.10.2019, dismissed the ejectment petition on the ground that the respondent had failed to prove bona fide personal necessity qua his son. It was held that the alleged requirement



was not genuine, and that the eviction petition had been filed merely to evict the petitioner from the shop in question.

7. On the contrary, the learned Appellate Authority, after examining the evidence available on record, observed that the learned Rent Controller had erred in appreciating the factual aspect regarding the absolute ownership of the adjoining shop in the name of Vishnu Kumar by virtue of registered sale deed Ex.P5, whereby the ownership in favour of Vishnu Kumar stood duly proved and was not in dispute. It was further observed that the landlord has the prerogative to choose the premises from which eviction is sought on the ground of bonafide necessity and the tenant cannot dictate as to which shop should be vacated. The Appellate Authority also took note of the testimony of RW-2 Radhey Shyam, who during cross-examination failed to rebut the plea of bonafide need of the landlord for settling his son's business. The testimony of PW-2 was found sufficient to substantiate the bonafide personal requirement. Further, PW-3 Amit Kumar, son of the landlord, categorically deposed through his affidavit that he was in bonafide need of the shop to run his business, being married, residing separately in a rented accommodation at House No.1174, Sector-13, HUDA, Bhiwani for the last 5-6 years, having no independent source of livelihood and being dependent upon his father.

8. It was also observed that although the adjoining shop in possession of Vishnu Kumar was bigger in size, the same could not be treated as an alternative accommodation for the landlord as Vishnu Kumar is its absolute owner by virtue of sale deed dated 16.06.2003 (Ex.P5). Hence, no adverse inference could be drawn against the



bonafide need of the landlord. The cross-examination of PW-3 did not discredit the case of bonafide necessity. On the other hand, the evidence led by the tenant, including testimonies of RW-1 and RW-2, were found insufficient to establish that the claim of bonafide need was merely a pretext to evict the tenant.

9. Accordingly, the learned Appellate Authority concluded that the landlord had successfully established his bonafide personal necessity of the shop in question for running the business of his son and consequently allowed the appeal, thereby ordering eviction of the petitioner-tenant.

10. Given the above discussion, this Court does not find any error in the judgement passed by the Appellate Authority. Accordingly, the present revision petition stands dismissed.

11. The pending miscellaneous application, if any, is also disposed of as such.

02.02.2026
'Sandeep'

(DEEPAK MANCHANDA)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No