

CR-5307-2025(O&M) 1

2025:PHHC:103498



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-5307-2025(O&M)

Date of decision : 11.08.2025

Devender Kumar Goyal

... Petitioner

Versus

Rakesh Kumar Jain

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Akshay Kumar Jindal, Advocate
for the petitioner.

Mr.Tanmoy Gupta, Advocate
for the respondent.

VIKAS BAHL, J.(ORAL)

1. Challenge in the present revision petition is to the judgment dated 22.01.2025 vide which the ejection petition filed by the respondent-landlord under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as "1973 Act") has been allowed and the present petitioner has been directed to hand over the vacant possession of the premises in question within three months from the date of the order. Challenge is also to the judgment dated 15.07.2025 vide which the Ist Appellate Court had dismissed the appeal filed by the present petitioner.

Arguments on behalf of the petitioner

2. Learned counsel for the petitioner has challenged the impugned



judgments on two grounds. Firstly, it is submitted that it is the case of the respondent-landlord in paragraph 6 of the ejectment petition that he had a shop at Main bazaar, near Lal Kuan Chaunk, Ferozepur Jhirka, District Mewat (Nuh), which has been transferred in favour of his son Anshu Jain vide transfer deed dated 11.02.2020. It is argued that the respondent-landlord had filed the petition on 04.03.2020 and the said fact clearly shows that the transfer deed has been executed in favour of son only to make a ground for eviction and thus, the requirement projected by the respondent-landlord is not bonafide.

3. Learned counsel for the petitioner has further raised another argument for setting aside the impugned judgments and for the said purpose has referred to paragraph 4 sub clause (ii) of the eviction petition to highlight the fact that although it is the case of the respondent-landlord that he is working with his brother Subhash Chand Jain who has Halwai shop but actually it is the respondent, who is running the said Halwai shop, which is situated at Lal Kuan Chauk, Ferozepur Jhirka, District Mewat. It is submitted that in fact the brother of the respondent i.e., Subhash Chand Jain has nothing to do with the said shop and said shop is exclusively being managed by the respondent and the averments made in paragraph 4 sub clause (ii) of the ejectment petition are false and incorrect. It is further submitted that since the respondent has another premises in which he can run the Halwai shop and is in fact running the Halwai shop in the same, thus, the requirement projected by the respondent for running the Halwai



shop in the shop in question is not bonafide and thus, the ejectment petition filed by the respondent-landlord deserves to be dismissed and the impugned judgments deserve to be set aside.

Arguments on behalf of the respondent

4. Learned counsel for the respondent-landlord, on the other hand, has submitted that the present revision petition is meritless and deserves to be dismissed and that the judgments passed by the Rent Controller as well as the Ist Appellate Court deserve to be upheld. It is submitted that the respondent-landlord had fairly disclosed his business as well as the shop, which has been transferred by the respondent in favour of his son, in which his son has been keeping building and construction material and it is the son who is in possession of the same. It is further submitted that the said shop which has been transferred in favour of his son was situated at Lal Kuan Chauk, Ferozpur Jhirka whereas the shop in question is situated at Mahavir Marg Road, Ferozpur Jhirka and it is the specific case of the respondent-landlord in the ejectment petition that Mahavir Marg Road is the most suitable place for carrying out the Halwai business as Mahavir Marg Road market is the main market of Ferozpur Jhirka and it connects the National Highway 248A with Ferozpur Jhirka town. It is further submitted that the other shop where the respondent is carrying on his business with his brother belongs to his brother and the registration certificate issued under Section 13 of the Punjab Shops and Commercial Establishments Act, 1958 which has been duly exhibited as



Ex.P5 clearly shows that the name and parentage of the employer mentioned in the same is of Subhash Chand Jain and the name of the establishment has been mentioned as Jain Misthan Bhandar. It is submitted that thus the plea raised by the petitioner that the shop in question belongs to the respondent is incorrect. It is further submitted that the said registration certificate Ex.P5 is dated 25.09.2019 and is much prior to the filing of the eviction petition. It is argued that even the said shop is situated at Lal Kua Chowk Ferozpur Jhirka, District Mewat Nuh and is not at Mahavir Marg Road, Ferozpur Jhirka, where the shop in question is situated which is a more suitable place for carrying on the business of Halwai. It is thus prayed that the present petition be dismissed.

Analysis and Findings

5. This Court has heard learned counsel for the parties and has perused the paper book and is of the opinion that the present revision petition is meritless and deserves to be dismissed and the impugned judgments of the Rent Controller as well as of the Appellate Authority are in accordance with law and deserve to be upheld for the reasons stated hereinafter.

6. The respondent had filed an ejectment petition under Section 13 of the 1973 Act against the present petitioner with respect to premises in question which was a shop along with veranda measuring 8' x 24' i.e. 21.5 sq. yards situated at Mahavir Marg Road, Ferozpur Jhirka which was bounded as under:-



“North – Mahavir marg Road.

South- 3 feet wide joint gali of owner and Pandit Sukh Lal.

East- Shop of Sh. Suresh Chand Jain.

West- 2.5 feet wide Joint Staircase, thereafter Shop of Sh.Phool Chand Goyal.”

7. One of the grounds raised for eviction was bonafide requirement. Paragraphs 4, 4 (ii), 5, 6 and 7 of the ejectment petition, which are relevant for considering the ground of bonafide requirement raised by the respondent, are reproduced hereinbelow:-

“4. That the respondent is liable to be ejected from the demises premises/ shop on the following grounds:-

xxx xxx xxx

(ii) That the demised premises /shop needs to be used for the personal requirement of the petitioner as the petitioner wants to start his own and separate business of Halwai (Sweet making). Since the shop is located at Mahavir marg road which is the most suitable shop for Halwai (sweet making) business. Mahavir marg road market is the main market of Ferozpur Jhirka and it connects the National Highway 248A with Ferozpur Jhirka town. The petitioner has sufficient experience for running Halwai (sweet making) shop also the petitioner has sufficient means and experienced staff to work in the said business because at present the petitioner is working in his brother's Halwai (sweet making) shop with his brother. Petitioner's brother Sh. Subhash Chand Jain is running a Halwai (Sweet making) Shop in the name and style of M/s Jain Mishthan Bhandaar at Lal kuan Chauk, Ferozpur Jhirka, Distt. Mewat (Haryana). Sh. Subhash



Chand Jain (brother of petitioner) is the proprietor of M/s Jain Mishthan Bhandaar. The petitioner is currently working in M/s Jain Mishthan Bhandaar with his brother Sh. Subhash Chand Jain.

5. That the petitioner now wants to start his own business of Halwai (sweet making) shop. Therefore, he requires the shop for his personal need. The demised premises is therefore needed for the Bona-fide use and requirement of the petitioner who wants to start his independent Halwai (Sweet Making) shop. Therefore, the premises is required for Bona-fide personal requirement of the petitioner.

6. That the petitioner earlier had a shop at Main bazaar, near Lal Kuan Chauk, Ferozepur Jhirka, Distt. Mewat (Nuh) since year 1987 which is in possession of the petitioner's son Sh. Anshu Jain S/o Sh. Rakesh Kumar Jain and is used by Sh. Anshu Jain for the purpose of Godown/Stock Yard for Building and construction Material as Sh. Anshu Jain carries out a business of Construction and private Contractorship at Ferozepur Jhirka. The petitioner transferred the said shop to his son Sh. Anshu Jain through Transferred Deed dated 11.02.2020.

7. That the petitioner has no other shop in his possession except the one which is mentioned above in Para No. 6 of the petition neither he vacated any other shop in Municipal limits of Ferozepur Jhirka or in the state of Haryana after year 1949.”

A perusal of the above pleadings would show that the respondent-landlord had come with clean hands before the Court and had disclosed each and every relevant fact including the fact that earlier he had a



shop near Lal Kua Chauk, Ferozpur and the same was being used by his son Anshu Jain for the purpose of storing building and construction material, as the said son carries out business of construction and private contractorship at Ferozpur Jhirka and that the respondent had transferred the said shop in favour of his son. Even the fact that the respondent-landlord was carrying on the business of Halwai in his brother's shop which was situated at Lal Kuan Chauk, Ferozpur Jhirka, District Mewat was also duly disclosed by the respondent. It was the case of the respondent-landlord that he wanted the premises in question for his personal requirement as he wanted to start his own separate business of Halwai (sweet making) and the shop in question is situated at Mahavir Marg Road which is the most suitable place to carry on the business of Halwai, as the Mahavir Marg Road Market is the main market of Ferozpur Jhirka and it connects the National Highway 248A with Ferozpur Jhirka town. It is not the case of the petitioner-tenant that any premises in occupation of the respondent has been concealed by the respondent in the ejectment petition or in the ejectment proceedings.

8. The Rent Controller after taking into consideration the entire evidence both oral and documentary, passed the eviction order on the ground of personal necessity and directed the present petitioner to vacate the premises within three months from the date of the order. In the said judgment, it was observed that the requirement of the respondent-landlord was genuine as he was having sufficient experience of sweet making in the



shop owned by his brother Subhash Chand Jain. Reliance was placed upon Ex.P5 which was registration certificate which showed that Subhash Chand Jain was the employer of the shop which was situated at Lal Kuan Chowk, Ferozpur Jhirka, District Mewat Nuh, where the respondent-landlord had stated that he was working with his brother. It was observed that the said shop was owned by Subhash Chand Jain and not by the respondent-landlord as argued by the tenant. On the plea raised by the tenant with respect to the transfer deed dated 11.02.2020 it was observed by the Rent Controller that the respondent being owner of the shop was competent to transfer the same in favour of his son in order to secure the future of his son by providing for regular income to the son from the said shop and no malafide intention could be imputed to the respondent for the same, moreso, when the tenant in the present petition had used the premises for the last 40-45 years.

9. The Appellate Court vide judgment dated 15.07.2025 also dismissed the appeal filed by the present petitioner and it was observed in the said judgment, after relying upon the various judgments including the judgment of Hon'ble the Supreme Court in the case of *Sarla Ahuja vs. United India Insurance Company Limited* reported as (1998) 8 SCC 119, that the landlord is the best judge of his needs and the tenant cannot dictate his terms to him and it was for the landlord to see the suitability of the premises required by him for his personal necessity and even the Court cannot dictate terms to the landlord regarding suitability of the premises for starting his business. Both the arguments raised by the learned counsel for



the petitioner before this Court were also raised before the Ist Appellate Court and the same were rejected.

10. The judgments of the Rent Controller as well as Ist Appellate Court are in accordance with law and deserve to be upheld. There is no infirmity or illegality in the said judgments. A perusal of the eviction petition would show that the respondent-landlord had made out a strong case for eviction on the ground of personal necessity. The respondent-landlord had not concealed any material fact from the Court and had rather detailed as to where the respondent-landlord was presently working and also the fact that the shop which was earlier owned by him had been transferred by him to his son. The plea raised on behalf of the petitioner to doubt the bonafide need of the respondent on the ground of the landlord executing a transfer deed dated 11.02.2020 in favour of his son as well as on the ground that it is the respondent, who was exclusively working in the shop, which was stated to be owned by the brother of the respondent, is misconceived and deserves to be rejected for more than one reason. Both the shops, which had been transferred by the respondent in favour of his son as well as where the respondent was working with his brother, are located near Lal Kuan Chauk, Ferozpur Jhirka whereas the shop in question is situated at Mahavir Marg Road, Ferozpur Jhirka which is stated to be the main market of Ferozpur Jhirka and it connects the National Highway 248A with Ferozpur Jhirka town. Nothing has been shown to this Court to rebut the plea of the landlord that the shop in question is most suitable. It is the case



of the respondent-landlord that he wishes to start his own separate business of Halwai in the said shop and thus, it is not for the tenant to dictate terms to the landlord as to where he should do his work and the bonafide need of the respondent-landlord cannot be doubted for him wanting to start his business at the place which is most suitable for him.

11. It is not in dispute that the respondent-landlord has a son and it is the case of the respondent-landlord that his son is doing the business of construction and private contractorship and the shop which has been transferred to him is being used by the son for the purpose of storing building and construction material. It is further his case that the shop is in the possession of his son. Nothing has been shown to this Court on behalf of the petitioner to rebut the said aspect. Both the Courts have rightly observed that no fault could be found in the conduct of the father if he wanted to settle his son, so that he could have independent income. Moreover, in the present case, the bonafide of the father is further apparent from the fact that even a transfer deed has been executed by the landlord in favour of his son so as to make him the owner and for his son to carry on his business independently. With respect to the other shop where the respondent is working along with his brother, apart from what has been stated hereinabove, it is apparent that the said shop belongs to the brother Subhash Chand Jain. The registration certificate Ex.P5 dated 25.09.2019, which document was executed much prior to the filing of the eviction petition clearly shows that it is the said Subhash Chand Jain who is the



employer and manager of the said shop. In the said circumstances, the requirement of the respondent-landlord to start his own independent business of Halwai in the shop in question cannot even remotely be stated to be not bonafide. This Court is of the view that the requirement projected by the respondent-landlord is bonafide and both the Courts i.e., Rent Controller and Ist Appellate Court have rightly passed the eviction order on the ground of personal necessity.

12. Keeping in view the above said facts and circumstances, the impugned judgments deserve to be upheld and are accordingly upheld and the revision petition being meritless deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

August 11, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No