

Before Tejinder Singh Dhindsa, J.

SHERE PUNJAB TRADING CO. AND ANOTHER—Petitioners

versus

SMT. UMA RANI MOHINDRU—Respondent

CR No.4213 of 2018

April 08, 2019

East Punjab Urban Rent Restriction Act, 1949—S.13—Bonafide requirement—Eviction petition filed by petitioner seeking eviction of tenant from shop in question on the ground that same is required by landlady for her son—Son appeared as witness being attorney holder and was cross-examined by tenant—Held, where landlord seeks eviction of tenant on ground of bonafide need normally landlord himself has to give evidence and not attorney holder—However, there is exception to said requirement—Where affairs of party are completely managed, transacted and looked after by attorney and who is close family member it is possible to accept evidence of such attorney—Evidence tendered by way of affidavit of son completely corroborates pleadings and plea of personal necessity taken by landlady in eviction petition—No infirmity in order passed by Rent Controller and Appellate Authority—Revision dismissed.

Held that, the dictum laid down by the Apex Court is that where landlord seeks eviction of his tenant on the ground of his *bona fide* need, normally the landlord himself has to give evidence and not an attorney holder. However, there is an exception to the aforesaid requirement i.e. where the affairs of a party are completely managed, transacted and looked after by an attorney and who happens to be a close family member, it would certainly be possible to accept the evidence of such attorney. Adverting to the facts of the present case, the eviction petition had been filed under Section 13 of the Act seeking ejection of the petitioner(s) herein from the shop in question by specifically raising a plea that the same is required by the landlady for her son Atul Mohindru and who is dependant on the landlady for the purpose of place or accommodation for running or expanding the business. In other words the attorney holder was none-else than the son of the landlady and who was already managing and running the business in a portion of the main building of which the shop in dispute is a part.

(Para 21)

Further held that, the case present a situation where the attorney holder i.e. Atul Mohindru, was not only closely related to the landlady i.e being the real son but was also in a position to substantiate the plea of personal necessity that had been taken by the landlady in the ejection petition. Atul Mohindru, the son as also attorney of the landlady has duly entered into the witness box and was cross-examined by the tenant(s). The evidence tendered by way of affidavit of the attorney or son i.e. Atul Mohindru Ex. PW1/A completely corroborates the pleadings and the plea of personal necessity taken by the landlady in the eviction petition.

(Para 22)

Further held that, this Court does not find any infirmity in the impugned orders passed by the Rent Controller as also the Appellate Authority in directing eviction of the petitioners herein from the premises in question as the same are based on cogent and valid reasoning.

(Para 25)

Arun Jain, Senior Advocate with

Varun Sharma and Aarnav Sood, Advocates
for the petitioners

Ashwani Kumar Chopra, Senior Advocate with
Akshit Chaudhary and Eesha Khanna, Advocates
for the respondent.

TEJINDER SINGH DHINDSA, J.

(1) This is tenants revision petition challenging the order dated 26.09.2017 of the Rent Controller, Jalandhar, whereby eviction has been ordered from the demised premises on the ground of personal *bona fide* need of the respondent-landlady; and further judgment of the Appellate Authority dated 17.05.2018 whereby appeal against the aforesaid order of eviction, has been dismissed.

(2) Brief facts of the case are that the respondent/landlady filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act 1949 (hereinafter to be referred to as the 'Act'), seeking ejection of the petitioners herein from Shop No.4 alongwith store and which was stated to be part of property Nos.11 and 12, Connaught Circus, Circular Road, Jalandhar. Case of the landlady was that the shop in question was taken on rent by petitioner No.1 herein i.e. Shere Punjab Trading Company through Sh. Rajiv Gupta, partner from Chanan

Singh, Gonda Singh sons of Bhagwan Singh, Charan Kaur widow of Bawa Singh, Raghbir Singh, Manjit Singh, Joginder Singh sons of Bawa Singh through their attorney Sh. Parkash Nath Dhir, for a period of 11 months on a monthly rent of Rs.250/- on the basis of oral tenancy followed by delivery of possession. Chanan Singh & party sold property Nos.11 and 12 Connaught Circus, Circular Road, Jalandhar of which the shop in question was a part in favour of the landlord on the basis of sale-deeds dated 10.06.1992, 15.06.1992 and 29.06.1992. In this way respondent herein became owner/landlord of the demised premises and the petitioner(s) herein became tenant under the landlady on a monthly rent of Rs.250/- per month.

(3) Ejectment was sought on the following grounds:-

“(i) Tenant (s) have not tendered rent since 01.06.1992 till the date of filing of the ejectment petition @ Rs.250/-per month.

(ii) Landlady required the demised premises for her son Atul Mohindru. Landlady asserted that her son Atul Mohindru is dependant upon her for the purpose of accommodation for running/ expanding his business. Son of the landlady deals in Non-Ferrous Metal business in Shop No.2 and Shop No.5 is being used by him as an office. Shop No.1 alongwith store has been given on rent to one Shri Tarsem Ahuja, who is running a business under the name and style of Modern Medical Hall. It was further asserted that the landlady has filing ejectment applications against the other tenant as well. The ejection petition in question had been filed qua Shop No.4. Shop No.3 is also in possession of the tenant (s)/petitioners herein and for which separate ejectment application is being filed. It was pleaded that the entire portion of the building, abutting the main road i.e. Shops No.1,2,3,4 and 5, is to be converted into a big showroom for metal products as her son has to expand his business. It was pleaded that the landlady/respondent herein owns a building at Mahavir Marg, Jalandhar, which is in possession of M/s Apollo Tyres and others as tenants. No portion of such building is vacant and in any case the ejectment petition has been filed qua the premises which was more suitable for running/expanding the business of metal products in which her son is already engaged.

(iii) Ejectment was also sought on the ground that the tenants have materially impaired the value and utility of the demised premises. It was pleaded that the tenants had agreed to use the covered portion of the varandah only as a passage but the same had been put to use for stocking of goods and as such the passage has been hindered/hampered resulting in impairment of the value and utility.”

(4) Upon notice the tenant(s)/petitioners herein put in appearance and filed written statement. Preliminary objections were taken that the ejectment petition is not *bona fide* and has only been filed to pressurize the tenants to increase the rent Rs.250/- per month to Rs.5000/- per month. On merits relationship of landlord and tenant was admitted. Rate of rent @ Rs.250/- per month was also admitted. It was denied that the rent is due w.e.f. 01.06.1992. Tenants asserted that the rent stood paid upto 31.03.1995 through cheques. It was also denied that the landlady requires the demised premises for her son Atul Mohindru as he was already doing the business from shops No.2 and 5 of the building in question. The ejectment petition was opposed on the plea that the entire building is constructed over an area of about 24 and ½ marlas whereas the tenants are in possession of a shop measuring 21ft. x 26 ft. approximately.

(5) On the pleadings of the parties following issues were framed by the Rent Controller:-

1. Whether the petitioner is entitled for eviction on the ground of non payment of rent?OPP
2. Whether the petitioner requires the suit property under personal necessity?OPP
3. Whether the respondents have materially impaired the value and utility of the demises premises?OPP
4. Whether the petition is not maintainable? OPR
5. Whether the petition is bad for non joinder of necessary parties?OPD
6. Whether the petitioner is estopped by her own acts, conducts, admissions and omissions from filing the present petition?OPR
7. Relief.”

(6) In order to prove the case son of the landlady namely Atul Mohindru, entered the witness-box as PW1 himself and in the capacity of the attorney of the landlady. In order to rebut the case of the landlady, petitioner No.2 herein appeared in the witness box as RW1.

(7) After hearing the arguments and considering the evidence led by the respective parties, the Rent Controller, Jalandhar, vide impugned order dated 26.09.2017 allowed the ejection petition and the tenant (s) was directed to hand-over the vacant possession of the demised premises to the landlady. It would be apposite to take note that ejection was directed on the ground of *bona fide* personal need of the landlady and not on the grounds of non-payment of rent and material impairment and utility of the premises. The reasoning adopted by the Rent Controller while directing ejection of the tenant (s)/petitioners herein, was in the following terms:-

“As far as the ground of ejection of the respondent on the basis of bonafide need is concerned, it is observed that petitioner has pleaded that the demised shop and the remaining building is required by the son of the petitioner for carrying on and expanding the business of Non-ferrous metals products as her son is already carrying on his business in the same building. It is observed that respondent have not denied that son of the petitioner namely Atul Mohindru is carrying on business of non-ferrous metals products in others shops of the same building. It is observed that petitioner has specifically pleaded that son of the petitioner wants to expand his business of metal products in Shop No. 1,2,3,4 and 5 by way of converting the same into a big showroom for metal products. Moreover, the property in dispute is more suitable for carrying the business of metal products as son of the petitioner is already carrying on the said business in the remaining portion of the property. It is also pleaded that son of the petitioner is dependent upon her. He does not own any shop within the municipal limits of Jalandhar nor he possesses any shop in his own right as owner within the Municipal limits of Jalandhar nor he has vacated any such shop since the commencement of the Rent Restriction Act.

As the petitioner has pleaded that the son of the petitioner is not having any other property within the Municipal limits nor has vacated the same. Hence, the

contention of Ld. counsel for respondent to this effect is not tenable.

As far as the contention of ld. counsel for respondent to the effect that petitioner can start his business at his property situated at Mahavir Marg, Jalandhar, is concerned, it is observed that the son of the petitioner is already running his business of nonferrous metal in some portion of the building, hence the building I dispute is very much suitable for expanding the business by the son of the petitioner. Moreover, the respondent cannot dictated his terms of the petitioner. It is on the petitioner to decide as to which premises is suitable for running his business. So, this contention of Ld.counsel for respondent is again not tenable.

As far as the contention of Ld.counsel for respondent to the effect that petitioner has not joined the remaining partners of the respondent firm is concerned, Hon'ble Punjab and Haryana High Court in case titled as Karan Sharma Vs. M/s H.S.B. Estates Pvt. Limited and another 2015 (1) PLR 396 it has been held that :

East Punjab Urban Rent Restriction Act, 1949, Section 13-Civil Procedure Code, 1908, Order 1, Rule 10- Eviction Petition- Application for – Impleadment of necessary party-Dismissed- Hence, revision petition -In the case of partnership firms it is possible that many partners may come and go but it does not mean that each and every partner is to be pleaded as a tenant in the rent petitions.

Hence, the present petition is duly maintainable, moreover present petition has been filed against the firm as well as against the acting partner. Hence, suit against the firm and any partner of the firm is considered to be a suit against all the partners. So, this contention of Ld. counsel for respondent is again not tenable.

So far as, the contention of the Ld. counsel for respondent to the effect that petitioner herself has not appeared in the witness box is concerned, it is observed that the son of the petitioner for whom the premises in dispute is required to expand the business has appeared in the court. Thus, the respondents have got the opportunity to cross

examine him on each and every aspect of the petition. Moreover, son of the petitioner has appeared as an attorney of the petitioner being fully conversant with the facts and circumstances of the present case. So, this contention of the ld. counsel for respondent is again not tenable.

Similarly, the contention of the Ld. counsel for respondent to the effect that petitioner has not disclosed the fact of running a Royal Allied Guest House is not tenable as the petitioner can run any number of businesses. The court has only to see as to whether the premises in dispute is required by the petitioner for her personal use and occupation or not. So, from the over all facts and circumstances of the case it can be concluded that the premises in dispute is required by the petitioner for her son, who wants to expand the business of nonferrous metal products by way of construction a showroom of non-ferrous metal products in the building in dispute. Thus, issue No.1 and 3 are decided against the petitioner and in favour of the respondent and Issue No.2, 4, 5 are decided in favour of the petitioner and against the respondent.”

(8) Feeling aggrieved of the order of ejectment, the tenant (s) herein filed an appeal before the Appellate Authority, Jalandhar, which was also dismissed vide impugned judgment dated 17.05.2018. The relevant paragraphs of the judgment read as follows:-

“Admittedly building No.11 & 12, situated in the area of Cannought Circus, Jalandhar, including shops No.1 to 5 are owned by the petitioner and shop No.1 is in possession of M/s Modern Medical Hall as tenant and shops NO.3 and 4 are in possession of appellant/respondents as tenants, whereas shop No.2 and 5 are in possession of son of respondent/petitioner Atul Mohindru, who is running metal products business in it. The godown behind the said shop is also in possession of the son of the respondent/petitioner who has been using it as store for running his business of metal products. Appellant/respondent Rajiv Gupta who came into witness box as RW1 has not denied the intention of son of the petitioner to convert shops No. 1 to 5 into a show room for metal products as well as non-possessing or owning of any other property by the son of the petitioner for expanding his business when questions in this regard were

put to him during his cross-examination by the learned counsel for the petitioner as he has stated that he did not know if the son of the petitioner intends to convert shops No.1 to 5 into a show room or that if the son of the petitioner does not own or possesses any other property for expanding the business. RW1 has also admitted in his cross-examination that the business of the son of petitioner has flourished, though he has again stated that he did not know whether the business was flourished or not. It is correct that the petitioner is owner of another building situated at Mahavir Marg, but the said building is in possession of M/s Apollo Tyres as admitted by RW1 in his cross-examination. He has also stated that one of his friend Mr. Goel was tenant in the portion of the said building and he has vacated the same but he did not remember the entire name of Mr. Goel and that how much area was in his possession. He has also stated that he has never gone inside the said building. Thus, the statement of above said RW1 itself proves that the other building owned by the petitioner situated at Mahavir Marg, Jalandhar is not in possession of the petitioner and moreover, it is the landlord who would decide about the premises suitable to him for running of his business and the tenant has no right to dictate his terms to the landlord as to how else he can adjust himself without getting the possession of the tenanted premises.

The ratio of the above said judgments is fully applicable to the facts of the present case as petitioner/landlord requires the shop in question for expansion of the business of metal products already run by his son. The non-filing of the ejectment petition against the tenant of shop No.1 by the respondent/petitioner itself is no ground to disbelieve the bonafide requirement of the respondent/petitioner as the shop No.3 and 4 under the possession of appellant/respondents as tenants are lying in between the shop No.2 and 5 under the possession of the son of the respondent/petitioner. Ejectment order has already been passed against the appellant/respondent for their ejectment from shop No.3 and 4 by the learned Rent Controller. Thus, even if the respondent/petitioner could not succeed in getting the shop No.1 vacated from its tenants even then son of the petitioner can expand his business by converting the

shops no.2 to 5 in a show room as shop No.1 is situated on the extreme left side of the building where said shops No.1 to 5 are situated. Moreover, if the respondent/petitioner does not occupy the shop got vacated from appellant/tenant, the appellant/tenant has legal remedy available with him under Section 13 (4) of the Act as the tenant may apply to the Controller or an order and direction that he shall be restored to possession of such building, if landlord or his family for whose benefit eviction as obtained, fails to occupy the premises for a continuous period of 12 months from the date of obtaining possession or where he puts that building to any use or lets it out to any tenant other than the tenant evicted from it. Hence, it can not be said that the need of the respondent/petitioner is not bonafide. It is correct that the shop in question can not be got vacated by the respondent/petitioner merely on the basis of a wish to get it vacated as the personal necessity of the landlord is required to have the element of need and not that of greed as is held by Hon'ble Punjab and Haryana High Court in a case titled as *Harjit Kaur versus M.K. Seth and another 2005(2) RCJ 7*, but in the present case it cannot be said that the necessity of the landlord to get the demised shop vacated for her son is a mere wish and not a bonafide requirement as discussed above.

Thus, the learned Rent Controller has rightly and legally held that the shop in question is required to the petitioner for bonafide requirement of her son.”

(9) It is against such backdrop that the petitioners/tenant(s) have approached this Court by filing the instant revision petition.

(10) Learned Senior counsel appearing on behalf of the petitioner (s) has vehemently argued that both the Courts below have committed material illegality and acted arbitrarily and have overlooked the vital aspect that the general power of attorney holder had no locus standi to set up the alleged need or requirement qua the premises in question as Smt. Uma Rani Mohindru (respondent-landlady) did not appear before the Court to depose therein. It is urged that since the landlady had not entered into the witness box and as such by not offering herself to be cross-examined by the tenant(s), the Courts below ought to have drawn an adverse inference against her to the effect that the case set up in the ejectment petition was not made out as Sh. Atul Mohindru was not

competent in law to depose on behalf of the landlady. It is contended that in cases of personal necessity, the evidence ought to be led by the landlord himself inasmuch as the plea and the proof thereof relates to the state of mind of the landlord concerned. Another limb of the argument raised is that even for the need of the son to be taken as need of the landlady, it was required to be proved on record that the son was dependant upon the landlady or the landlady was dependant upon him and such onus has also not been discharged as the landlady/respondent chose not to step into the witness box.

(11) Reliance has been placed upon the judgment of the Apex Court in *Ajit Singh and another* versus *Jit Ram and another*¹ on behalf of the tenant (s) to contend that in case the landlord/landlady requires the premises for use of the son for business, in that case it is mandatory for the son also to plead and prove that he was not occupying any such other building, and has not vacated such building without sufficient cause. It is argued that the necessary ingredients in terms of Section 13 (3) (a) (ii) (b) and (c) of the Act, have not even been pleaded insofar as son is concerned and under such circumstances ejection from the premises on the ground of *bona fide* personal necessity cannot sustain. Counsel states that the dictum laid down in *Ajit Singh's case* (supra) has been followed by this Court in *Shankar Lal* versus *Madan Lal and others*² and *Manmohan Lal* versus *Shanti Parkash Jain*³

(12) It has further been argued on behalf of the tenant(s) that the impugned ejection order on the ground of *bona fide* requirement is without basis as the respondent/landlady does not require the shop in question for her son as he is already running the business of metal products in the other portion of the same building and as such the premises in question could not be got vacated merely on the basis of a wish as the element of need was lacking. It is submitted that if the need for expanding the business being run by the son of the respondent/landlady was genuine then ejection ought to have been sought even qua shop No.1 by filing an ejection petition but the same has not been filed.

(13) Per contra learned Senior counsel for the respondent/landlady has stated that the ejection order passed by the

¹ 2008 2 RCR (Rent) 328

² 2011 (1) RCR (Rent) 139

³ 2014 (5) RCR (Civil) 667

Rent Controller is perfectly just and valid and has been passed upon due appreciation of evidence inasmuch as the shop in question i.e. shop No.4 alongwith shop No.3 was under the possession of the tenant(s)/petitioners herein and it was the *bona fide* need of son of the landlady who intended to expand his business of metal products being run from shop Nos.2 and 5 that has been upheld. It is argued that merely on account of non-filing of an ejectment petition against the tenant who has possession of Shop No.1 would not be a ground to disbelieve and discard the *bona fide* requirement of the respondent/landlady insofar as shop No.3 as also shop No.4.

(14) Learned Senior counsel vehemently contends that in the facts and circumstances of the case, the tenant (s) had no right to dictate terms to the respondent/landlady as to in what manner the business interest of her son are to be expanded/adjusted. He prays for dismissal of the instant revision petition.

(15) I have heard learned counsel for the parties and have examined the original records of the case that were requisitioned.

(16) It is by now well settled that a landlord can seek eviction of tenant from the tenanted premises not only for his or her need but even for the need of a closely related person. Reference in this regard may be made to the judgment of the Apex Court in *Joginder Pal* versus *Naval Kishore Behal*⁴ wherein it had been held that the expression “*for his own use*” would cover the requirement of any person closely connected to the landlord as per the social or socio-religious milieu and practices prevalent in a particular section of society or a particular region. In short the requirement of a family member or of a person on whom the landlord is dependant or who is dependant on the landlord is also the requirement of the landlord. What emerges is that a landlord may apply to the rent control Court for an order of eviction if he *bona fide* needs the building for his own occupation or the landlord *bona fide* needs the building for occupation by any member of his family dependant upon him. It would be crucial to observe that dependency does not mean financial dependency but dependency for the building which belongs to the landlord.

(17) In the present case the eviction petition was filed by the landlady-respondent setting up a *bona fide* need of the premises in question for running/expansion of the business of her real son namely

⁴ 2002 1 RCR (Rent) 582

Atul Mohindru. Such an eviction petition was clearly maintainable by the landlord under the provisions of the Act.

(18) The ground of personal necessity of the respondent/landlady has been assailed primarily on the ground that the landlady had not appeared in support of her plea and that her attorney namely Atul Mohindru, was not competent to depose on her behalf as according to learned counsel for the petitioner, in the case of personal necessity the evidence ought to have been led by the landlady herself because the plea and the proof thereof relates to the state of mind of the landlady concerned which would involve her personal knowledge.

(19) As such it would require to be examined, whether in an eviction petition preferred by the landlady on the ground of *bona fide* need, it was necessary for her to enter into the witness box and if she has not entered into the witness box but has tried to prove the case by examining her attorney holder i.e. real son, whether such evidence is sufficient and legally acceptable to prove the *bona fide* need and whether the attorney holder was competent to appear on behalf of the landlady to prove her case of *bona fide* need of the premises in question.

(20) The issue formalized hereinabove is no longer *res integra*. The Hon'ble Supreme Court in the case of ***Man Kaur (Dead) through LRs*** versus ***Hartar Singh Sangha***⁵ held as under:-

“(a) An attorney holder who has signed the plaint and instituted the suit, but has no personal knowledge of the transaction can only give formal evidence about the validity of the power of attorney and the filing of the suit.

(b) If the attorney holder has done any act or handled any transactions, in pursuance of the power of attorney granted by the principal, he may be examined as a witness to prove those acts or transactions. If the attorney holder alone has personal knowledge of such acts and transactions and not the principal, the attorney holder shall be examined, if those acts and transactions have to be proved.

(c) The attorney holder cannot depose or give evidence in place of his principal for the acts done by the principal or transactions or dealings of the principal, of which principal alone has personal knowledge.

⁵ 2011 (1) PLR 744

(d) Where the principal at no point of time had personally handled or dealt with or participated in the transaction and has no personal knowledge of the transaction, and where the entire transaction has been handled by an attorney holder, necessarily the attorney holder alone can give evidence in regard to the transaction. This frequently happens in case of principals carrying on business through authorized managers/attorney holders or persons residing abroad managing their affairs through their attorney holders.

(e) Where the entire transaction has been conducted through a particular attorney holder, the principal has to examine that attorney holder to prove the transaction, and not a different or subsequent attorney holder.

(f) Where different attorney holders had dealt with the matter at different stages of the transaction, if evidence has to be led as to what transpired at those different stages, all the attorney holders will have to be examined.

(g) Where the law requires or contemplated the plaintiff or other party to a proceeding, to establish or prove something with reference to his 'state of mind' or 'conduct', normally the person concerned alone has to give evidence and not an attorney holder. A landlord who seeks eviction of his tenant, on the ground of his 'bona fide' need and a purchaser seeking specific performance who has to show his 'readiness and willingness' fall under this category.

There is however a recognized exception to this requirement. Where all the affairs of a party are completely managed, transacted and looked after by an attorney (who may happen to be a close family member), it may be possible to accept the evidence of such attorney even with reference to bona fides or 'readiness and willingness'. Examples of such attorney holders are a husband/wife exclusively managing the affairs of his/her spouse, a son/daughter exclusively managing the affairs of an old and infirm parent, a father/mother exclusively managing the affairs of a son/daughter living abroad.”

(21) The dictum laid down by the Apex Court is that where landlord seeks eviction of his tenant on the ground of his *bona fide*

need, normally the landlord himself has to give evidence and not an attorney holder. However, there is an exception to the aforesaid requirement i.e. where the affairs of a party are completely managed, transacted and looked after by an attorney and who happens to be a close family member, it would certainly be possible to accept the evidence of such attorney. Adverting to the facts of the present case, the eviction petition had been filed under Section 13 of the Act seeking ejection of the petitioner(s) herein from the shop in question by specifically raising a plea that the same is required by the landlady for her son Atul Mohindru and who is dependant on the landlady for the purpose of place/accommodation for running/expanding the business. It was specifically averred in the eviction petition that son of the petitioner deals in non-ferrous metal business and is running such business from shop No.2 and shop No.5 is being used by him as an office. Shop Nos.3 and 4 were under the occupation of the petitioners-tenants herein and it is with the view to expand business and to convert the entire portion of the building abutting the main road i.e. Shops No.1, 2, 3, 4 and 5, into a big showroom for metal products, ejection was being sought. In other words the attorney holder was none-else than the son of the landlady and who was already managing and running the business in a portion of the main building of which the shop in dispute is a part. It would be useful at this stage to extract para 3 (b) of the ejection petition preferred by the landlady against the petitioner herein:-

“ That petitioner requires the demised premises for her son Atul Mohindru who is married and has two children. Said Atul Mohindru son of the petitioner is dependent on the petitioner for the purpose of place/accommodation for running the business because said son of the petitioner does not own any shop within the municipal limits of Jalandhar nor he possesses any shop in his own right as owner within the Municipal Limits of Jalandhar nor he has vacated any such shop since the commencement of Rent Restriction Act. Petitioner owns the building which is shown in red and green colour in the plan and said building bears no.11 & 12 and is in the area of Connaught Circus, Jalandhar, son of the petitioner deals in Non Ferrous Metal business in shop Mark '2' and is using portion Mark 'A' as Godown for the said business whereas shop marked '5' is being used by him as office. Shop No.1 along with store is also on rent with Sh. Tarsem Ahuja who is running the business under the name

and style of Modern Medical Hall. Petitioner is filing ejectment applications against other tenants also. Shop No.4 is also in possession of respondents against whom separate ejectment application in respect of said shop is being filed. Son of the petitioner wants to expand his business of Metal products. The entire portion abutting the main road which forms part of shop no. 1,2,3,4 & 5 is to be converted into a big showroom for Metal products. Petitioner owns one building on Mahavir Marg, Jalandhar which is in possession of M/s Apollo Tyres & some others as tenant. No portion of the said building is vacant so as to enable the son of the petitioner to start the business. Moreover, the property in dispute qua which ejectment petitions are being filed is most suitable for running the business of metal products as son of the petitioner is already carrying on the said business in remaining portion of the property. Petitioner does not own and possess any other commercial property where the son of the petitioner can start the business of metal products. She has also not vacated any such premises after the commencement of the act without sufficient cause.”

(22) The facts of the case present a situation where the attorney holder i.e. Atul Mohindru, was not only closely related to the landlady i.e being the real son but was also in a position to substantiate the plea of personal necessity that had been taken by the landlady in the ejectment petition. Atul Mohindru, the son as also attorney of the landlady has duly entered into the witness box and was cross-examined by the tenant(s). The evidence tendered by way of affidavit of the attorney/son i.e. Atul Mohindru Ex. PW1/A completely corroborates the pleadings and the plea of personal necessity taken by the landlady in the eviction petition.

(23) The contention raised on behalf of tenants that since the landlady-respondent was seeking eviction from the shop in question on the ground of *bona fide* requirement for business of her son and the landlady has failed to plead and prove that the son for whose occupation eviction is being sought was not occupying any other building and has not vacated any other building in the urban area concerned is also without merit.

Section 13 (3) (a) (ii) (b) and (c) of the act read as under:-

“13 Eviction of tenant:-

(3) (a) A landlord may apply to the controller for an order directing the tenant to put the landlord in possession;

(i)

(ii) In the case of non-residential building or rented land, if

(a) he requires it for his own use;

(b) he is not occupying in the urban area concerned for the purpose of his business any other such building or rented land as the case may be; and

(c) he has not vacated such a building or rented land without sufficient cause after the commencement of this Act, in the urban area concerned;”

(24) In para 3 (b) of the ejectment petition reproduced hereinabove, it was specifically pleaded that Atul Mohindru son of the landlady is dependent upon her for the purpose of place/accommodation for running the business and that the son ***“does not own any shop within the municipal limits of Jalandhar nor he possesses any shop in his own right as owner within the Municipal Limits of Jalandhar nor he has vacated any such shop since the commencement of the Rent Restriction Act.”*** The ingredients of Section 13 of the Act were duly pleaded and proved at the hands of the attorney/real son in terms of tender of his affidavit Ex. PW1/A by way of evidence.

(25) In view of the above discussion, this Court does not find any infirmity in the impugned orders passed by the Rent Controller as also the Appellate Authority in directing eviction of the petitioners herein from the premises in question as the same are based on cogent and valid reasoning.

(26) No merit.

(27) Dismissed.

Angel Sharma