



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

**Date of Decision: 16.09.2025
CR-2775-2015 (O&M)**

1.

Smt. Balbir Kaur and others

...Petitioners

VERSUS

Sat Parkash Ghai

...Respondent

2.

CR-2776-2015 (O&M)

Smt. Radha Rani and ors.

...Petitioners

VERSUS

Sat Parkash Ghai

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr.Puneet Jindal, Sr. Advocate with
Ms. Malvi Aggarwal, Advocate
for the petitioners.

Ms.Rupinder Kaur, Thind, Advocate &
Ms.Navdeep Kaur, Advocate
for the respondent(s).

HARKESH MANUJA, J. (ORAL)

This order of mine shall dispose of abovementioned two civil revisions as common question of facts are involved therein. For convenience, facts are being taken from CR-2775-2015.

2. By way of present Civil Revision, challenge has been laid to an order dated 16.02.2015 passed by the learned Rent Controller, Phagwara, whereby the prayer made at the instance of petitioners/tenants for grant of leave to contest the eviction petition preferred at



the instance of respondent/landlord having invoked Section 13-B of the East Punjab Urban Rent Restriction Act, 1949, for short '1949 Act', has been rejected.

3. Briefly stating, an eviction petition came to be filed at the instance of respondent/ landlord against petitioners/ tenants qua one shop situated in Old Dana Mandi, Phagwara, District Kapurthala, having invoked Section 13-B of the 1949 Act. Relevant paragraphs No.1 and 2 of the aforesaid eviction petition are extracted hereunder:-

"1. That the petitioner purchased one shop double storeyed consisting of three rooms on the ground floor and the upper floor, situated in Mandi Maharaj Ganj(also known as Old Dana Mandi) from its previous owner Lala Bhag Ram Handa s/o Lala Gainda Mal, of Phagwara, vide Regd. sale deed dated 24.4.1965, Registered on 11.5.1965. The site plan of the shop is attached with the sale deed. Copy of the sale deed and site plan are attached herewith. The petitioner also purchased one other shop double storeyed consisting of three rooms on the ground floor and the upper floor, situated in Mandi Maharaj Gajj (also known as Old Dana Mandi), Phagwara with common rights stairs from its previous owner Sh. Mangat Ram s/o Hari Ram Handa, r/o Phagwara vide Regd, sale deed dt.14.7.1964, registered on 15.7.1964. The site plan is attached with the sale deed. The copy of sale deed and site plan are attached herewith.

2. That the demised shop was let out to



*Sh.Purshotam Ram s/o Sh.Mohinder Singh-
husband and father of the Respondents and the
same is bounded as under:*

East: Property of Sat Parkash Petitioner:

West: Shop of Balraj Maini:

North: Street (Gali);

South: Court-Yard of Mandi:

*situated in Mandi Maharaj Ganj (Old Dana
Mandi), Phagwara, vide Rent Note dated 3-5-
1975, for Eleven months-through Sh. Inderjit
Ghai-Attorney of the petitioner. It was agreed by
the tenant that the shop has been let out for
Eleven Months on a monthly rent of Rs.250/- for
doing the business of Aarth. The rent was
agreed to be paid in advance against receipt.
The electricity charges were to be borne by the
tenant. All the terms settled between the parties
were duly incorporated in the Rent note
dt.3.5.1975 and since then, Purshotam Singh
became tenant under the petitioner and after his
death, the Respondents. Copy of the Rent Note
is attached herewith.”*

4. Upon receipt of summons, petitioners/ tenants preferred an application under Section 18 (4) of the 1949 Act for seeking leave to contest the eviction petition. The relevant paragraphs No.8 to 10 thereof, are extracted hereunder:-

“8. That the petitioner is not a Non-Resident Indian as defined under the EPURR Act. The petitioner is permanent resident of Australia and is living there along with his family for the last forty



years and never visited India. He and his family are well settled there.

9. *That the petitioner has got no locus standi to file the application. He is well settled in Australia. He cannot shift to India. He has no bonafide need. The petition is malafide.*
10. *That it is pertinent to mention here that the applicant has mentioned two sale deeds in the petition one is dated 11.05.1965 pertaining to a shop double storeyed consisting of three rooms on ground floor and upper floor purchased from Sh. Bhag Ram Handa. Similarly, second sale deed is dated 14.07.1965 pertaining to a shop purchased from Mangat Ram. The fact remains that this extra ordinary powers of ejectment have been given under Section 13-B of East Punjab Urban Rent Restriction Act provided the said right can be asserted only once by the tenant and that too to one building only once during his lifetime, but in the present case, the facts clearly show that the applicant purchased two distinct and separate shops by two separate sale deeds from two distinct owners. So this special relief cannot be entertained for two separate and distinct units as stated above and the ejectment application is liable to be dismissed. The right so granted under Section 13-B of the East Punjab Urban Rent Restriction Act is available to one building (unit) and only once in the lifetime of NRI Landlord/Owner.”*

5. Reply to the aforesaid application was filed on behalf of the respondent/ landlord thereby controverting the grounds taken in



the application for leave to contest. Paragraphs 8 to 10 of the reply submitted by the respondent/ landlord are extracted hereunder:-

- “8. That para No.8 of the application is not admitted, hence denied. The petitioner is a Non-Resident Indian as defined under the Rent Act. The petitioner very often visits India to meet his brothers and other family members.*
- 9. That para No.9 of the application is not admitted, hence denied. The petitioner has got the locus standi to file the petition for ejectment. The petitioner is requiring the premises for his bonafide need and the petition is not based on malafide.*
- 10. That para No.10 of the application is not admitted, hence denied. The both the shops are contiguous to each other, although purchased vide two sale deeds and it is one unit and part of one building, therefore, petitioner can file ejectment petition under the special provisions of Rent Act.”*

6. Learned Rent Controller, vide its order dated 16.02.2015 dismissed the application for grant of leave to contest filed at the instance of petitioners/ tenants, hence the present revision petition(s).

7. Impugning the aforementioned order, learned Senior counsel appearing on behalf of the petitioners/ tenants submits that under Section 13-B of the 1949 Act, an NRI landlord has right to seek preferential ejectment qua one building only. Learned counsel



submits that in the present case, from the perusal of the eviction petition and the other records it was established that besides the eviction been sought qua the demised shop/ building in question; one other eviction petition was preferred at the instance of respondent/ landlord qua another/ abutting building against Smt. Radha Rani through her LRs. He also points out that the building in question and the adjoining building were both purchased by the respondent/ landlord vide two separate sale deeds from two different owners and as such two separate eviction petitions regarding abovementioned two different buildings were not maintainable under the provisions of Section 13-B of the 1949 Act.

7.1 Learned Senior counsel also points out that there was active concealment on the part of respondent/ landlord in his ejectment petition as the factum of he being a co-owner in a property joint with his other brothers, situated within the same urban estate i.e. Phagwara was never disclosed in the present eviction petition. Learned Senior counsel contents that even an eviction petition qua the said joint property situated at Railway Road, Phagwara was filed at the instance of the real brother of the respondent/ landlord and the same was pending consideration before the Court of competent jurisdiction. He thus submits that once an eviction petition was preferred at the instance of one of the co-owners of the respondent/ landlord having invoked Section 13-B of the 1949 Act in relation to a joint property and the same was pending, the respondent/ landlord



was not having any right to seek eviction petition qua the property in question/ demised premises under the same provisions. In support, he relies upon a Division Bench judgment of this Court in **Smt. Bachan Kaur and others Vs. Kabal Singh and another**, reported as 2011 (1) RCR (Rent) 368. Paragraphs 1 and 10 thereof being relevant are extracted hereunder:-

“1. The following questions have been referred to Larger Bench vide order dated 29.9.2010 passed by the learned Single Judge :-

1. Whether NRI/landlord who is a co-owner with the other landlords, who do not have the same status, as that of NRI can maintain a petition for eviction of the tenant from the property jointly owned by all of them?
2. Whether the premises from which eviction is sought under Section 13-B of the Act is to be let out by NRI/landlord or his duly authorized person acting on his behalf, or it can also include the letting by some other co- owner or predecessor-in-Interest in their own right and not under the authority of NRI/landlord?”

The said questions of law relates to the interpretation of the provisions of Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the Punjab Act), as inserted by the Punjab Act No. 9 of 2001...

10. A co-owner is owner of each part of the property in husband like manner with other co-owners. He is entitled to seek ejectment of tenant in premises for benefit and for the benefit of all other co-owners. Such right is subject to



one exception that none of the remaining co-owner objects to such action of the petitioning co-owner. If one of the owners happens to be a NRI, he does not relinquish his character and status as that of co-owner. Thus an order of ejectment obtained by a NRI co-owner will bind other co-owners but will not entitle other NRI and/or an co-owner to seek ejectment of tenant from another building either owned solely by such co-owner or jointly with other persons as co-owner in exercise of right of eviction granted to an NRI by Section 13-B of the Punjab Act. Thus in respect of first question of law, it is held that a co-owner, who is Non-Resident Indian, even when other co-owners are not Non-Resident Indians, can maintain a petition for ejectment for the benefit of all the co-owners.”

7.2. Furthermore, learned Senior counsel also points out that a specific plea was raised in the application for leave to contest that the respondent/ tenant never visited India for the past 40 years and thus, he could not have invoked the special provisions of Section 13-B of the 1949 Act; having no intent to return to India and settle here. He points out that no document was placed on record by the respondent/ landlord even to prima facie show that he ever visited India in the past 40 years. In support of the aforesaid submissions, learned counsel for the petitioners/ tenants placed reliance upon the judgment of the Hon’ble Apex Court in ***Inderjeet Kaur Vs. Nirpal Singh***, 2001 (1) RCR (Rent) 33 and paragraph 15 thereof being



relevant is extracted hereunder:-

“15. *With this background, we now turn to the facts of the case in hand. It is clear from the reading of the order of the Addl. Rent Controller that he has taken pains to write an elaborate order as if he was writing an order after a full-dressed trial of eviction petition; he has considered merits of the respective contentions at the stage of granting leave to defend under [Section 25B\(5\)](#) without keeping in mind the scope of the provisions and statutory duty cast on him. He exceeded the jurisdiction vested in him in refusing leave to defend to the appellant. It appears to us that he did not focus his attention to the scope and content of [Section 25B\(5\)](#). Having regard to the facts stated and grounds raised in the affidavit filed by the appellant seeking leave to defend which we have already narrated above, it is not possible to take a view that no triable issue arose for consideration. The facts stated in the affidavit of the appellant in support of his application seeking leave to defend prima facie do*



disclose that the respondent would be disentitled to obtain an order for the recovery of possession of the premises from the appellant particularly when other cases are pending between the parties and defence does not appear to be frivolous or untenable on the face of it. The Addl. Rent Controller has acted with material irregularity and committed a manifest error in accepting the case of the respondent-landlord when the facts were seriously disputed and the correctness or otherwise of the documents required to be examined. Whether the suit premises was used for residential-cum-commercial purposes from the inception and whether the respondent and his son and other members of the family are permanently and comfortably settled in U.K. and whether the requirement of the premises by the respondent was bona fide, are the matters which could not be adjudicated as has been done by the Addl. Rent Controller at the stage of dealing with the application to grant leave to defend. In this view of the matter, we have no hesitation to say that the order



passed by the Addl. Rent Controller refusing leave to defend to the appellant cannot be sustained. Unfortunately, the High Court also has affirmed it without taking into consideration the correct legal position indicated above having regard to the facts of the case. We are of the view that the Addl. Rent Controller and the High Court both were in error in refusing to grant leave to the appellant to contest the eviction petition.”

7.3. Learned Senior counsel also points out that the learned Rent Controller wrongly non-suited the petitioners/ tenants while recording that no material in the shape of any report from the Architect or any site plan was placed on record to establish that the two shops being subject matter of two eviction petitions were in fact two separate buildings/ units. Learned Senior counsel submits that no opportunity was ever afforded to the petitioners/ tenants to establish the said plea on record and for the said purpose only leave to contest was required to be granted. He points out that statutorily application for leave to contest under Section 18 (4) of the 1949 Act needs to be filed in a short span of 15 days from the date of service of notice of the eviction petition and in such a short period, it is impracticable for a tenant to place on record material in support of the grounds raised in



the affidavit/application for grant of leave to contest and in such circumstances, the learned Rent Controller was required to grant sufficient opportunity to the petitioners/ tenants in order to establish the grounds.

In view of the above, learned Senior counsel appearing for the petitioners/ tenants submits that the learned Rent Controller went wrong while declining the prayer made on behalf of the petitioners/ tenants having rejected the application for leave to contest and the impugned order was thus liable to be set aside.

8. On the other hand, learned counsel appearing on behalf of respondent/ landlord submits that a specific plea was raised in reply to the application filed for grant of leave to contest and it was pleaded that although two contiguous shops were purchased vide two separate sale deeds but the same were part of one unit/ building. She also points out that even a site plan to this effect was appended along with the eviction petition so as to show that the two shops formed part of one unit/ building only. Learned counsel further contends that no specific and categoric plea with respect to any eviction petition been preferred at the instance of brother of the respondent/ landlord being co-owner qua the property situated at Railway Road, Phagwara, was raised in the application for leave to contest. She points out that the decision passed in the case of **Bachan Kaur's** (supra) was not applicable to the facts and circumstances of the present case as the question framed and



answered therein was totally different. Learned counsel also points out that in the reply to the application for grant of leave to contest, it was specifically and categorically pleaded that the respondent/landlord has been visiting India in the past few years so as to meet his friends and relatives and thus in view of the above, the impugned order calls for no interference.

9. I have heard learned counsel for the parties and gone through the paper book.

10. A review of the record reveals that in two eviction petitions, the respondent/landlord sought eviction orders against two different set of tenants regarding two separate shops purchased by him through two sale deeds from different vendors. However, a review of the site plan appended to the present eviction petition shows that both shops are part of one unit/building. A review of the application filed on behalf of the petitioners/tenants for leave to contest shows that the site plan appended to the eviction petition has not been disputed or controverted. The only dispute raised on behalf of the petitioners/tenants is that the two separate shops were purchased through two different sale deeds from two distinct owners. However, this does not question the validity of the site plan attached to the eviction petition, which clearly indicates that both shops/tenanted premises in the two eviction petitions are part of one single unit/building. Therefore, the case set up by the



petitioners/tenants that the two shops subject to two eviction petitions are in fact two separate buildings/units is *prima facie* not made out.

11. Furthermore, the two eviction petitions at the instance of the respondent/landlord were filed in 2012, invoking Section 13-B of the 1949 Act, claiming himself to be an NRI landlord. However, one of the brothers of the respondent/landlord, Rattan Chand Ghai, who was a co-owner, sought eviction from a premise situated at Railway Road, Phagwara in October 2014, much after the filing of the eviction petition in the present case.

11.1 Furthermore, the ejectment petition preferred at the instance of the brother of the landlord/tenant, who was a co-owner of another property, claiming to be an NRI/landlord, would not debar the individual and independent right vested with the respondent/landlord to seek eviction in the building in question, which was solely and exclusively owned by him.

11.2 It is noteworthy that the other eviction petition, filed at the instance of one of the brothers of the respondent/landlord, was jointly owned by approximately seven persons as mentioned in the eviction petition. Therefore, the exposition of law by the Division Bench of this Court in **Bachan Kaur's case** (supra) is not applicable to the facts and circumstances of the present case. The question framed and answered by the Division Bench was entirely different as evident from paras 1 and 10 of the aforementioned judgment which is extracted in



the preceding paragraph. In ***Bachan Kaur's*** case (supra), the question framed to be answered was never about the adjudication of comparative rights of an NRI regarding a tenanted building that was not exclusively owned by them, in contrast to a building/unit that was jointly owned with others.

11.3 Furthermore, in the opinion of this Court, the contention raised on behalf of the petitioners/tenants that there was concealment on the part of the respondent/landlord who failed to disclose other properties situated at Railway Road, Phagwara, was not made out. The property in question was his exclusive ownership. Moreover, the language used in Section 13-B of the Act does not mandate the landlord to disclose other buildings owned by him/her in an eviction petition filed under this special provision. Even otherwise, the same cannot be read into the provision as the right available under Section 13-B of the 1949 Act is for one building/unit as per the landlord's choice, making the ownership of other buildings irrelevant. The requirement of mandatory disclosure of other properties has been incorporated only in Section 13 (3) of the 1949 Act, which deals with the personal requirement of a resident Indian. This requirement is not applicable when seeking eviction under any other ground or under Section 13 B, which is a special right upon NRI. Therefore, there is no requirement for a landlord filing an ejectment application under Section 13-B of the 1949 Act to disclose that he is in possession of



other properties within the urban area where the demised premises is situated. If that was the intention of the legislature, it would have been mentioned in Section 13-B as well as in Section 13(3) of the 1949 Act. The only requirement is that the landlord should be an NRI, the owner of the demised premises for the last five years, and in the petition, he requires the premises for his own use and occupation, or for anyone living and dependent upon him.

12. The contention raised by the petitioners/tenants that the ingredients of Section 13-B of the 1949 Act were not made out because the respondent/landlord had no intention of returning to India is not valid against the respondent/landlord. A review of the relevant portion of the respondent/landlord's passport, which has been attached to the eviction petition, clearly shows that the immigration department stamped it with the Indian Emblem during the past 10-15 years. Therefore, the petitioners'/tenants' contention was entirely misconceived and not supported by the facts and circumstances of this case. Consequently, the judgment of the Hon'ble Apex Court in ***Inderjeet Kaur's case*** (supra), cited by the learned Senior Counsel for the petitioner, does not apply to the facts of this case. Moreover, it was not even necessary for an NRI to permanently return to and settle in India to avail the benefits of the provisions of Section 13-B of the 1949 Act during the pendency of such an eviction petition.



13. Furthermore, the grounds raised by the petitioners/ tenants in their affidavit/application for leave to contest were capable of being adjudicated upon by the Rent Controller. The pleadings and the material available on record, including the eviction petition, application for leave to contest, and its reply, were sufficient. No further evidence was required in this regard. The Rent Controller has the power to grant leave to contest. The petition filed under Section 13-B of the 1949 Act must specify the grounds for contest. The tenants would be entitled to leave to contest only if they present a strong case to challenge those grounds. The enquiry would be confined to Section 13-B, and the Rent Controller would consider the respect due to the landlord. The landlord's requirement to be genuine and *bona fide* is open and subject to the tenant's right to revert, provided to present strong and cogent evidence. The tenant would have to be a heavy burden of proof to demonstrate that the landlord's requirement is not genuine. To prove such a fact, the tenant would be required to provide all the facts and circumstances supported by document/ evidence to support his plea in the affidavit itself seeking leave to contest. The tenant's assertion alone would not be sufficient to overturn the strong presumption in the landlord's favour that is a requirement for the occupation of the premises to be real and genuine. In such circumstances, the prayer for leave to contest made by the petitioners/ tenants was rightly declined by the Rent Controller while keeping in view the intent, purpose, and object of the special

provision under Section 13-B of the 1949 Act. No interference is called for in the present revision petitions, and they are, therefore, dismissed by upholding the well-reasoned order dated 16.02.2015 by the Rent Controller, Phagwara.

14. Pending miscellaneous application(s), if any, shall also stand disposed of.

16.09.2025
sanjay

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned ?	Yes/No
Whether Reportable ?	Yes/No