



CR-2039-2024 (O&M)

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

**CR No.2039 of 2024 (O&M)
Date of Reserve: 07.03.2025
Date of Decision: 04.04.2025**

HARPREET SINGH**.....Petitioner****Vs****PARNEET SINGH SOHI****....Respondent****CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Sapan Dhir, Advocate
for the petitioner.

Mr. R.S. Athwal, Advocate
for the respondent.

HARKESH MANUJA, J. (Oral)

1. By way of present petition, challenge has been laid to an order dated 12.02.2024 passed by the learned Rent Controller, Chandigarh whereby an application filed on behalf of petitioner-tenant seeking condonation of delay in filing an application for leave to defend on his behalf has been dismissed thereby resulting into acceptance of eviction petition filed at the instance of respondent-landlord by directing the petitioner-tenant to handover the vacant and physical possession of the demised premises.

2. Briefly stating, in the present case the respondent-landlord while claiming himself to be an NRI; having American passport filed an eviction petition against the petitioner-tenant qua building/flat No.1257/2 Sector 43-B, Chandigarh; invoking Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter to be referred as the '1949 Act').

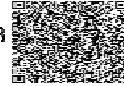


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2.1. In the eviction petition, it was pleaded that the property in question was rented out to the petitioner-tenant on 01.05.2021 @ Rs.12,000/- per month, who failed to even pay the arrears of rent w.e.f. 01.01.2022 and besides it, the same was even required by the respondent-landlord for his personal use as he wanted to return to India and utilize the same during his visits for his stay so as to keep in touch with his relatives and childhood friends. It was also pleaded that the respondent-landlord had neither rented out nor got vacated and was not even in occupation of any other property in U.T., Chandigarh.

3. Upon notice, the petitioner-tenant put in appearance through his Advocate, who filed his power of attorney on 15.07.2023 before the Rent Controller and hearing of the eviction petition was adjourned to 04.08.2023. Thereafter, the eviction petition was deferred for 01.09.2023 and on the said date, the petitioner-tenant filed an application seeking condonation of delay in moving an application for leave to defend along with application seeking grant of leave as well while submitting that neither any summon nor notice was received by the tenant nor even his counsel informed him that the eviction petition was filed under Section 13-B of 1949 Act and an application for leave to defend was to be filed within 15 days. Further, it was also pleaded that an agreement to sell qua the property in question was executed between the parties and based thereupon even a suit for specific performance was filed by the petitioner-tenant on 04.10.2023 before the Civil Court; which was pending consideration.

4. The respondent-landlord filed his reply to the application moved by the petitioner-tenant for seeking condonation of delay of 31 days in filing application for leave to defend while submitting that there was no provision under



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1949 Act which enabled the Rent Controller to condone the delay and thus, prayed for dismissal of the same.

5. The Rent Controller vide its order dated 12.02.2024 dismissed the application filed on behalf of the petitioner-tenant for condonation of delay in filing the application for leave to defend. Aggrieved thereof, the instant petition has been filed.

6. Learned counsel for the petitioner submits that the non-filing of application for grant of leave to defend within 15 days of appearance occurred on account of *bona fide* miscommunication between the petitioner and his lawyer, who never informed the petitioner-tenant of his right of filing an application for grant of leave to defend within 15 days of appearance before the Rent Controller.

Learned counsel further submits that passing of the impugned order by the Rent Controller has caused serious prejudice to the rights of the petitioner-tenant and as such instead of non-suiting him for technical reasons, he was required to be permitted to file his substantial defence, so that his substantial rights were adjudicated upon as per merits. In support of his submissions, learned counsel relies upon the decision rendered in the case of *Director Education and Anr. vs. Mohd. Shamim and Ors.*, reported as “2018(1) R.C.R. (Rent) 50”. Reliance has also been placed upon the decision passed in the case *of S. Manohar Singh vs. S. Aridaman Singh Dhillon* reported as 2002(2) R.C.R. (Rent) 652. Relevant paragraph Nos.10 & 13 thereof are extracted hereunder:-

“10. It may be noticed that under the Act, there is no clause which expressly exclude the applicability of the Limitation Act to any of the proceedings under the said Act. Therefore, keeping in view the interpretation of Section 29(2), the provisions of Section 4 to 24 including that of Section 5 would be applicable to the proceedings under "the Act" including that to application for leave to defend. It may further be noticed



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that the Hon'ble Supreme Court in Mukri Gopalan's case has approved the minority view in Jokkim Fernandez case (supra) whereas the Division Bench in Ashwani Kumar Gupta's case has approved the majority view of the said Full Bench of the Kerala High Court. The principle laid down by Hon'ble Supreme Court in Mukri Gopalan's case (supra) has come up for decision in other cases as well before the Hon'ble Supreme Court.

13. *Keeping in view the binding precedents of Hon'ble Supreme Court in Mukri Gopalan's case and subsequently in Kartick Chandra, I hold that the provisions of Section 5 of the Limitation Act would be applicable to the proceedings under "the Act" including that of application for leave to defend. Since the provisions of Section 29(2) and Mukri Gopalan's case were not brought to the notice of the Court, the judgment given by the Division Bench is law per incuriam. Rule of per incuriam can be applied where a Court omits to consider the binding precedent of the same Court or superior court tendered on the same issue or where the Court omits to consider any statute while deciding that issue. Reference may be made to **Mamleshwar v. Kanahaiya Lal, A.I.R. 1975 S.C. 907** wherein it has been held as under:-*

"Certainty of the law, consistency of rulings and comity of courts-all flowering from the same principle-convergence to the conclusion that a decision once rendered must later bind like cases. We do not intend to detract from the rule that, in exceptional instances, where by obvious inadvertence or oversight a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, it may not have the sway of binding precedents. It should be a glaring case, an obtrusive omission. No such situation presents itself here and we do not embark on the principle of judgment per incuriam."

6.1. Learned counsel for the petitioner also relies the decision rendered by this Court in the case of **Paramjit Kaur vs. Gurcharan Singh Walia**, reported as **2007(2) R.C.R. (Rent) 589**. Relevant paragraph No.11 thereof is extracted hereunder:-

"11. However, on consideration of the matter, I find force in the contention raised by the learned Counsel for the petitioner. As observed above, till the filing of the application under Section 18A of the Act, the

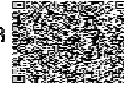


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parties as well as the Court were proceeding with the matter as if the petition was filed under Section 13 of the Act. Statutory summons were not served in prescribed form, thus there was no valid service under Section 13-B of the Act, thereby, the application for leave to defend could not be said to be time barred. The reliance placed by the learned counsel for the respondent on the judgment of this Court in Narinder Singh's case (supra) is misconceived as in the said case it has not been held that in absence of service of statutory summons also, the petition is to be treated as time barred, rather in the said case, it was observed that the petitioner can have no grievance for non-service of summons in Schedule II as plea for leave to defend was considered on merit. The situation in the present: case practically is also the same, as besides holding the application to be beyond limitation, the learned Rent Controller, in fact, has considered the pleas of the petitioner on merit.”

6.2 Further, learned counsel for the petitioner places reliance upon decision in case of ‘**Roop Kishore Sharma vs. Smt. Bachni Devi**’, reported as **1997(2) R.C.R. (Rent) 285.** Relevant paragraph No.4 thereof is extracted hereunder:-

4. *After considering the rival contentions of the parties, this Court is of the opinion that the impugned order dated 29.4.97 is liable to be set aside. While disposing of such like applications, a too rigid approach is not supposed to be taken by the learned Rent Controller if the tenant has raised an arguable point in the application. Those points should be scanned through by judicial scrutiny. It is a case where some cause has been given by the tenant as to why he has not been able to make the application within 15 days. If there is a delay on the part of the tenant in filing the necessary application after the statutory period of 15 days then a liberal approach should be given to condone the delay unless the learned Rent Controller thinks that the delay on the part of tenant was mala fide affair. At this juncture it is not proper on the part of the trial Court that the delay in moving the application for defence was a motivated or mala fide.”*



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6.3. Reliance has also been placed in case of '**Kimti Lal vs. Jaswinder Kaur**' reported as '**2009(3) Indian Civil Cases 131**'. The same is extracted hereunder:-

"B.N. Agrawal, J. - Leave granted.

2. *Heard learned counsel for the parties.*
3. *The application filed by the appellant under Section 13-B of the East Punjab Urban Rent Restrictions Act, 1949 for grant of leave to contest the landlord's prayer for eviction was dismissed by the Rent Controller on the ground that the same was barred by time. The High Court dismissed the revision petition filed against the order of the Rent Controller. Hence, this appeal by special leave.*
4. *Having heard learned counsel for the parties and perused the application filed by the appellant, we are of the view that in the facts and circumstances of the present case, the Rent Controller should have granted leave to the appellant to contest the petition filed by the landlord.*
5. *Accordingly, the appeal is allowed, impugned orders are set aside and leave is granted to the appellant to contest the eviction petition filed by the respondent. Eight weeks' time is allowed to the appellant to file written statement. The Rent Controller is directed to dispose of the main petition within a period of six months from the date of receipt/production of copy of this order."*

7. On the other hand, learned counsel for the respondent while relying upon the decision rendered by the Hon'ble Apex Court in the case of **Om Parkash vs. Ashwani Kumar Bassi** reported as "**2010 AIR (Supreme Court) 3791** and the decisions passed by this Court in the case(s) **Babu Ram vs. Naresh Kumar** reported as "**2003(3) R.C.R. (Rent) 49**; **Raju vs. Gurdeep Singh** reported as "**2017(3) PLR 682**; **Director and Warden of Fisheries, Punjab Chandigarh vs. Sant Kaur @ Basant Kaur and another** reported as "**2007(11) R.C.R. (Civil) 533** and **Suman vs. Bhagat Ram** reported as "**2008(1) R.C.R. (Civil) 313** submits that the Rent Controller was having no jurisdiction to condone the delay by invoking



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Section 5 of the Limitation Act and grant extension of time in favour of the petitioner-tenant towards filing of application for grant of leave to defend. Learned counsel further submits that the period of 15 days as prescribed under Section 18-A of the 1949 Act was sacrosanct and the same could not be extended by the Court and, thus, prayed for dismissal of the present revision petition.

8. I have heard learned counsel for the parties and gone through the paper book of this case. I am unable to find merit in the present revision petition.

9. Before proceeding further in the matter, it is important to have a close look at the relevant provisions of 1949 Act, which read as under:-

Section 13-B

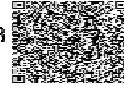
13-B. Right to recover immediate possession of residential building or scheduled building and/or non-residential building to accrue to Non-resident Indian:-

(1) Where an owner is a Non-Resident Indian and returns to India and the residential building or scheduled building and/or non-residential building, as the case may be, let out by him or her, is required for his or her use, or for the use of any one ordinarily living with and dependent on him or her, he or she, may apply to the Controller for immediate possession of such building or buildings, as the case may be :

Provided that a right to apply in respect of such a building under this Section, shall be available only after a period of five years from the date of becoming the owner of such a building and shall be available only once during the life time of such an owner.

(2) Where the owner referred to in sub-section (1), has let out more than one residential building or scheduled building and/or non-residential building, it shall be open to him or her to make an application under that sub-section in respect of only one residential building or one scheduled building and/or one non-residential building, each chosen by him or her.

(3) Where an owner recovers possession of a building under this Section, he or she shall not transfer it through sale or any other means or let it out before the expiry of a period of five years from the date of taking possession of the said building, failing which, the evicted tenant may apply



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to the Controller for an order directing that he shall be restored the possession of the said building and the Controller shall make an order accordingly.”

Section 18-A

18A. [Special procedure for disposal of applications under Section 13-A or Section 13-B.]

(1) *Every application under [section 13-A or section 13-B] [Substituted vide Punjab Act 9 of 2001.] shall be dealt with in accordance with the procedure specified in this section.*

(2) *After an application under [section 13-A or section 13-B] [Substituted vide Punjab Act 9 of 2001.] is received, the Controller shall issue summons for service on the tenant in the form specified in Schedule II.*

(3)(a) *The summons issued under sub-section (2) shall be served on the tenant as far as may be in accordance with the provisions of Order V of the First Schedule to the Code of Civil Procedure, 1908. The Controller shall in addition direct that a copy of the summons be also simultaneously sent by registered post acknowledgement due addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and that another copy of the summons be affixed at some conspicuous part of the building in respect whereof the application under [section 13-A or section 13-B] [Substituted vide Punjab Act 9 of 2001.] has been made.*

(b) *When an acknowledgement purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent has refused to take delivery of the registered article and an endorsement is made by a process server to the effect that a copy of the summons has been affixed as directed by the Controller on a conspicuous part of building and the Controller after such enquiry as he deems fit, is satisfied*



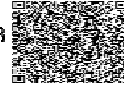
about the correctness of the endorsement, he may declare that there has been a valid service of the summons on the tenant.

(4) The tenant on whom the service of summons has been declared to have been validly made under sub-section (3), shall have no right to contest the prayer for eviction from the [residential building or scheduled building and/or non residential building] [Substituted vide Punjab Act No. 9 of 2001.], as the case may be, unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains leave from the Controller as hereinafter provided, and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the specified landlord or, as the case may be, the widow, widower, child, grandchild or the widowed daughter-in-law of such specified landlord [or the owner, who is non resident Indian] [Inserted vide Punjab Act 9 of 2001.] in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction of the tenant.

(5) The Controller may give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the specified landlord or, as the case may be, the widow, widower, child, grand- child or widowed daughter-in-law [or the owner, who is non resident Indian] [Inserted vide Punjab Act 9 of 2001.] of such specified landlord from obtaining an order for the recovery of possession of the [residential building or scheduled building and/or non residential building] [Substituted vide Punjab Act No. 9 of 2001.], as the case may be, under [section 13-A or section 13-B] [Substituted vide Punjab Act 9 of 2001.].

(6) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing on a date not later than one month from the date on which the leave granted to the tenant to contest and shall hear the application from day-to-day till the hearing is concluded and application decided.

(7) Notwithstanding anything contained in this Act, the Controller shall while holding an inquiry in a proceeding to which this section applies including the recording of evidence, follow the practice and procedure of a Court of Small Causes.



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(8) *No appeal or second appeal shall lie against an order for the recovery of possession of any [residential building or scheduled building and/or non residential building] [Substituted vide Punjab Act No. 9 of 2001.] made by the Controller in accordance with the procedure specified in this Section :*

Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.

(9) *Save as otherwise provided in this section, the procedure for the disposal of an application for eviction under [section 13-A or section 13-B] [Substituted vide Punjab Act 9 of 2001.] shall be the same as the procedure for the disposal of applications by the Controller.*

Schedule-II

Schedule II

[See sub-section (2) of Section 18-A]

Form of summons in a case where recovery of possession of [residential building or scheduled and/or non-residential building] [Substituted vide Punjab Act 9 of 2001.] is prayed for under [section 13-A or section 13-B] [Substituted vide Punjab Act No. 9 of 2001.] of the East Punjab Urban Rent Restriction Act, 1949.

(Name, description and place of residence of the tenant)

Whereas Shri-----has filed an application (a copy of which is annexed) for your eviction from----- (here insert the particulars of the residential building or scheduled building and/or non-residential building under [section 13-A or section 13-B] [Substituted vide Punjab Act No. 9 of 2001.] of the East Punjab Urban Rent Restriction Act, 1949.

Now, therefore, you are hereby summoned to appear before the Controller within fifteen days of the service thereof and to obtain the leave of the Controller to contest the applicant for eviction under [section 13-A or section 13-B] [Substituted vide Punjab Act No. 9 of 2001.] of the said Act, in default whereof, the applicant will be entitled at any time after the expiry of the said period of fifteen days to obtain an order for your eviction from the said [residential building or scheduled building and/or non-residential building] [Substituted vide Punjab Act 9 of 2001.].



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Leave to appear and contest the application may be obtained on an application to the Controller supported by an affidavit as is referred to in sub-section (5) of Section 18-A of the said Act.

Given under my hand and seal this.....day of.....19...

Controller”

10. The aforementioned provisions have been extensively dealt with by the Hon’ble Apex Court as well as this Court and the exposition of law made thereupon in brief is discussed hereunder:-

(a) In case of **Roop Kishore Sharma** (supra), the delay in filing of application for leave to defend was condoned merely for the reason that liberal approach was required to be adopted in such matters; unless delay on the part of tenant was a mala fide affair.

(b) In case of **Paramjit Kaur** (supra), it was decided in favour of tenant while condoning the delay in granting leave to defend for the reason that the statutory summons were not served in prescribed form and thus, there was no valid service under Section 13-B of the Act.

(c) The Hon’ble Supreme Court, in case of **Kimti Lal** (supra) went on to grant leave in favour of tenant to contest in the peculiar facts and circumstances of the case, without laying down any law on the point as to whether the provisions of Section 5 of Limitation Act, 1963 could be invoked by the Rent Controller for condoning delay in favour of tenant while dealing with applications for grant of leave to defend.

(d) Further, exposition of law made by this Court in case of **S. Manohar Singh** (supra) whereby it was held that provisions of Section 5 of Limitation Act, 1963 would apply for the purpose of



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condonation of delay while dealing with application for grant of leave to defend was discussed and distinguished in a later decision in case of **Babu Ram** (supra) with the following discussion in paragraph Nos.10 & 11 thereof:-

“10. The applicability of the provisions of the Act, therefore, is to be judged not from the terms of the Limitation Act but by adverting to the provisions of the Act relating to filing of a petition under Section 13-A of the Act for seeking immediate possession of a 'residential' or 'scheduled building' for which a right accrues to certain persons. It is to be seen by adverting to the provisions and where the procedure provided therein is a complete Code itself, it does not then admit the application of the provisions of the Limitation Act mentioned in Section 29(2) thereof. A reference to the provisions of Sections 13-A and 18-A of the Act would show that the procedure provided regarding right to recover immediate possession of 'residential' or 'scheduled building', is a complete code by itself and the same does not admit the application of any provision of the Limitation Act mentioned in Section 29(2) thereof. It is also appropriate to note that in terms of Section 18-B of the Act, it is provided that Section 18-A or any rule made for the purpose thereof, shall have effect notwithstanding anything inconsistent therewith contained elsewhere in this Act or in any other law for the time being in force. This also would exclude the applicability of the Limitation Act. The procedure prescribed for seeking recovery of immediate possession of 'residential' or 'scheduled building' in terms of Section 13-A of the Act, would not admit the applicability of the provisions of the Limitation Act. In fact, in Ashwani Kumar Gupta's case (supra) also, it was held that the procedure provided under Section 13-A of the Haryana Act is a Code unto itself and it constitutes special provisions not only vis-a-vis other provisions of the Haryana Act but also any other law which is inconsistent with the provisions of Section 13-A and Section 18-A of the Act. As such, the tenant cannot invoke the provisions of the Limitation Act for seeking condonation of delay in filing the application. Besides, the

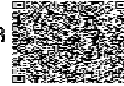


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Rent Controller cannot condone the delay in filing an application for seeking leave to contest an application for eviction under Section 13-A of the Act.

11. *The position, therefore, is that the provisions of the Limitation Act in respect of an application for condoning the delay to file an application for leave to contest an application filed under Section 13-A(2) of the Act which is required to be filed with 15 days of the receipt of summons, are not applicable. The position as pleaded by the petitioner is that the tenant-respondent did not file an application for seeking leave to contest the petition filed under Section 13-A of the Act within the period of 15 days from the date of service of summons. The respondent, however, subsequently on 7.2.2005 submitted an application for condoning the delay and for grant of leave to defend the case. The application being barred by time, the Rent Controller had no jurisdiction to grant the leave to contest the petition and thereby impliedly condone the delay under Section 5 of the Limitation Act. The said provision is inapplicable to the procedure provided in respect of right to recover immediate possession of 'residential' or 'scheduled building' in terms of Section 13-A of the Act. The provisions of the Limitation Act having been held to be inapplicable in the matter of procedure provided for seeking recovery of immediate possession of 'residential' or 'scheduled building' in terms of Section 13-A of the Act, the application for leave to contest was not liable to be granted. The application seeking leave to contest the petition under Section 13-A of the Act having not been filed within time as has been stipulated in the statute itself as a condition precedent for the Rent Controller to proceed further to enquire the merits in defence, the Rent Controller is obliged under the constraining influence of compulsion statutorily cast upon it to pass an order of eviction in the manner envisaged under Section 13-A of the Act."*

Similarly decision in case of S. Manohar Singh (supra) was also discussed and distinguished by another Co-ordinate Bench of this Court in case of Suman (supra) to hold that the provision of Section 5



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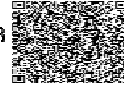
of the Limitation Act, 1963 was not to apply while dealing with application filed by the tenant for grant of leave to defend under the provisions of 1949 Act. Relevant paragraph Nos.11 to 14 of the judgment are reproduced hereunder:-

11. The question that arises for consideration is whether provisions of Section 5 as also Section 29(2) of the Limitation Act, 1963 can be said to be inconsistent or to be construed as supplemental to each other. The answer lies in the judgment of the Hon'ble Supreme Court in the case of Gopal Sardar (supra) wherein it has been observed as under:

13. ...even though special or local law does not state in so many words expressly that Section 5 of the Limitation Act is not applicable to the proceedings under those Acts, from the scheme of the Act and having regard to various provisions such express exclusion could be gathered. Thus, a conscious and intentional omission by the legislature to exclude application of Section 5 of the Limitation Act to the proceedings under Section 8 of the Act, looking to the scheme of the Act, nature of right of pre-emption and express application of Section 5 of the Limitation Act to the other provisions under the Act, itself means and amounts to "express exclusion" of it satisfying the requirement of Section 29(2) of the Limitation Act.

(Emphasis supplied)

12. In the opinion of the Hon'ble Apex Court, even if there is no specific or express exclusion of Section 5 of the Limitation Act in a special or local law and such special/local law does not provide for extension of time or condonation, Section 5 of the Limitation Act will not apply and the provisions must be construed to exclude Section 5 of the Limitation Act. In the light of ratio of this Judgment, there is no escape but to hold that Section 5 of the Limitation Act is not



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applicable for condoning delay in making application for leave to contest eviction petition.

13. *There is another important and relevant provision which must be construed to exclude the applicability of Section 5 of the Limitation Act. Sub-section 18-B of the East Punjab Urban Rent Restriction Act, 1949 reads as under:*

18-B. Section 18-A to have over-riding effect-Section 18-A or any rule made for the purpose thereof shall have effect notwithstanding anything inconsistent therewith contained elsewhere in this Act or in any other law for time being in force.

14. *A bare reading of this Section makes it abundantly clear that procedure prescribed under Section 18-A of the Act has over-riding effect on all other provisions of this Act or any other law for the time being in force to the extent of inconsistency. This can be construed to be a provision which expressly excludes Section 5 of the Limitation Act as otherwise it tends to render the provisions of Section 18-A of the Act read with Form prescribed which contains specific period of limitation for seeking leave to contest the eviction petition and does not envisage any extension or relaxation of the prescribed period as otiose. Thus, I am of the considered view that the view expressed in the case of **Babu Ram v. Naresh Kumar** (supra) needs to be followed.*

(e) Above all, even the Hon'ble Apex Court in case of **Om Parkash** (supra) dealt with the provisions of East Punjab Urban Rent Restriction Act, 1949 and went on to hold that Rent Controller has no jurisdiction to condone delay under Section 5 of Limitation Act, while dealing with an application for leave to defend. Relevant paragraph Nos.17 & 18 of the judgment are reproduced hereunder:-

17. *Section 13-B is a power given to a Non-Resident Indian owner of a building to obtain immediate possession of a residential building or scheduled building when required for his or her use or*



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for the use of any one ordinarily living with and dependent on him or her. The right has been limited to one application only during the life time of the owner. Section 18-A(2) of the aforesaid Act provides that after an application under Section 13-B is received, the Controller shall issue summons for service on the tenant in the form specified in Schedule II. The said form indicates that within 15 days of service of the summons the tenant is required to appear before the Controller and apply for leave to contest the same. There is no specific provision to vest the Rent Controller with authority to extend the time for making of such affidavit and the application. The Rent Controller being a creature of statute can only act in terms of the powers vested in him by statute and cannot, therefore, entertain an application under Section 5 of the Limitation Act for condonation of delay since the statute does not vest him with such power.

18. In such case, neither the Rent Controller nor the High Court had committed any error of law in rejecting the Petitioner's application for seeking leave to contest the suit, since the same had been filed beyond the period prescribed in the form in Schedule II of the Act referred to in Section 18-A(2) thereof."

11. In view of the detailed discussion made hereinabove, the principle of law which emerges is that Sections 13-B & 18-A of 1949 Act which provide for unique and extraordinary right to recover immediate possession of residential or scheduled building and/or non-residential building is a complete code by itself and the same does not admit the application of any provision of the Limitation Act mentioned in Section 29(2) thereof; procedure under Section 18-A of the act read with the Form prescribed under Schedule II which contains specific period of limitation for seeking leave to contest eviction petition, has over-riding effect on all other provisions of this Act or any other law for the time being in force to the extent of inconsistency and, therefore, has to be construed as an express exclusion to Section 5 of the Limitation Act especially when the provision of Section 18-A or



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Schedule-II nowhere provide for any extension or relaxation of the prescribed period of 15 days; but to the contrary provide for entitlement of the landlord to obtain an order of eviction at any time after the expiry of said period of 15 days. Therefore, the Rent Controller being a creature of Statute can only act in terms of powers vested under the Statute and thus, cannot entertain an application under Section 5 of the Limitation Act for condonation of delay; such power being not vested to him under statute.

12. Accordingly, applying the exposition of law referred to hereinabove, no illegality or perversity can be found with the impugned order passed by the learned Rent Controller, while rejecting the application moved by the petitioner-tenant under Section 5 of the Limitation Act being not maintainable; followed by an order of eviction against him. Furthermore, no merit can be found in the submissions made on behalf of the petitioner-tenant that he was never served with any notice of the eviction petition in the prescribed Form/Schedule-II as even a certified copy of a summon issued to him was perused by the Court at the time of hearing which clearly depicted that not only it was mentioned therein that the summon was about a petition under Section 13-B of East Punjab Urban Rent Restriction Act, but it was also reflected specifically that the tenant was required to appear in pursuance of the summons and obtain leave of the Rent Controller to contest the eviction petition with fifteen days and in default, the landlord will be entitled for order of eviction. Relevant extract from the copy of summon is even reproduced hereunder:-

*“NOTICE TO RESPONDENT IN PETITION RC or ARC/187/2023
UNDER SECTION 13-B OF EAST DR PARNEET SINGH SODHI
PUNJAB URBAN RENT RESTRICTION VS HARPREET SINGH
ACT PREVIOUS DATE: 29-05-2023
Next Date: 15.07.2023*

To



CR-2039-2024 (O&M)

HARPREET SINGH
Son: - LABH SINGH
FLAT NO.1257/2 SECTOR 43 B CHANDIGARH
PERMANENT RESIDENT OF HNO.265 STREET NO.265 STREET NO
10 WARD NO 5 MANSA PUNJAB

Whereas Petitioner DR PARNEET SINGH SOHI has filed an application (a copy of which is annexed) for your eviction from the property in dispute (mentioned in the copy of the petition) under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949. Now, therefore, you are hereby summoned to appear before the Controller within fifteen days of the service thereof and to obtain the leave of the Controller to contest the petition for eviction under Section 13-B of the said Act, in default whereof, the applicant will be entitled at any time after the expiry of the said period of fifteen days to obtain an order for your eviction from the property in dispute. Leave to appear and context the application may be obtained on an application to the Controller supported by an affidavit as is referred to in sub-section (5) of Section 18-A of the said Act.

Dated, this day of 30-05-2023.

RENT CONTROLLER
Chandigarh”

13. In view of above discussion present revision petition is thus, dismissed being devoid of merits thereby upholding the dated 12.02.2024 passed by the learned Rent Controller, Chandigarh.

14. All pending applications, if any, shall stand disposed of.

April 04, 2025

Atik

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned
 Whether reportable

Yes/No
 Yes/No