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

CR-5587-2022 (O&M)

Date of decision: 15.09.2025

Tarun Salhotra

...Petitioner

Versus

Anu Sareen and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE VIKAS BAHL**

Present: Mr. Avnish Mittal, Advocate and  
Ms. Ishika Jain, Advocate for the petitioner.

Mr. Vineet Chaudhary, Advocate for respondent No.1.

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**VIKAS BAHL, J. (ORAL)**

1. Challenge in the present revision petition is to the order dated 26.08.2022 passed by the Additional Civil Judge (Senior Division), Ambala, vide which, while allowing the application filed by the petitioner under Order 14 Rule 5 CPC for framing additional issue as to whether there was relationship of landlord and tenant between the parties, the Rent Controller had wrongly put the onus on the tenant-petitioner to prove the said issue. Challenge is also to the order dated 15.11.2022 passed by the same Court, vide which, an application filed by the petitioner-tenant for recalling the abovesaid order dated 26.08.2022 had also been dismissed.

**ARGUMENTS ON BEHALF OF THE PETITIONER:-**

2. Learned counsel for the petitioner has submitted that in the present case, respondent No.1-alleged landlord-Ms. Anu Sareen had filed



a petition for ejectment seeking eviction of the present petitioner and one Vishal Batra from the premises in question on the plea that earlier Ram Mohan Wahee was the owner and landlord of the premises and the present petitioner was statutory tenant under him and after the death of Ram Mohan Wahee, respondent No.1, who had alleged that she had registered a Will in her favour from the said Ram Mohan Wahee, had now become the landlord and the present petitioner was tenant under her. It is submitted that various grounds of eviction were pleaded, including the ground of arrears of rent and that the present petitioner in the written statement had denied the relationship of landlord and tenant between the parties. It is submitted that in spite of the said pleadings, the Rent Controller on 17.02.2022 did not frame any issue regarding there being relationship of landlord and tenant between the parties and immediately, thereafter the petitioner had filed an application under Order 14 Rule 5 CPC for framing of the said additional issue.

3. It is submitted that in the said application, the said issue was specifically framed and onus of the said issue as to whether there was relationship of landlord and tenant between the parties, in accordance with the settled law, was not placed upon the respondent No.1 who had filed eviction petition and was claiming herself to be the landlord. It is submitted that in spite of it being the settled law that it is for the person who files an eviction petition to prove the relationship of landlord and tenant and despite the same having been denied by the tenant in the written statement, the Rent Controller put the onus of the said issue on the



present petitioner/tenant and even framed the issue in the negative form. It is submitted that the petitioner had filed an application for review/recalling of the said order but the same had been dismissed. It is submitted that it has been repeatedly held by this Court as well as various other Courts that onus to prove the said relationship is on the person who has filed the eviction petition. In support of his arguments, he has relied upon the **judgment dated 18.03.1985** passed by the Coordinate Bench of this Court in case titled as **Maj. Parkash Gupta Vs. Sat Parkash Arora,** reported as **1985(1) RCR (Rent) 536** as well as judgment dated 05.08.1997 passed by the Bombay High Court titled as **Laxman Babu Berad Vs. Sudhakar Nanasaheb Jawale,** reported as **(1998) 2 Bom CR 259.** It is prayed that the impugned orders be set aside to the limited extent of the issue having been negatively framed and the onus having been put on the present petitioner.

4. Learned counsel for the petitioner has further highlighted the order dated 01.12.2022 passed by the Coordinate Bench of this Court vide which notice of motion and notice regarding stay was issued and thereafter, order dated 19.07.2023 passed by the Coordinate Bench of this Court vide which, an interim order was passed to the effect that the Rent Controller, Ambala was directed to adjourn the proceedings beyond the date fixed before this Court. It is submitted that the said interim order has been continuing till date and thus, the case is still at the stage of evidence of respondent No.1/alleged landlord. The said orders dated 01.12.2022 as well as 19.07.2023 passed by the Coordinate Bench of this Court, which



were highlighted by learned counsel for the petitioner, are reproduced hereinbelow:-

**“ORDER DATED 01.12.2022:-**

*Present:- Mr. Avnish Mittal, Advocate  
for the revisionist-petitioner.*

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*Learned counsel for the revisionist-petitioner, inter-alia, contends that while framing the additional issue vide the impugned order dated 26.08.2022, learned Rent Controller has erroneously burdened the petitioner-tenant to prove that “there is no relationship of landlords and tenant between the parties” whereas the issue should have been framed in the positive form regarding the existence of the relationship of landlords and tenant between the parties and the onus to prove the same should have been cast upon the landlords-respondents.*

*Notice of motion.*

*Notice re: stay as well.*

*Let notices be issued to the respondents for 27.01.2023 through ordinary process, e-mail or any other electronic mode. Dasti as well.*

*December 01, 2022*

**ORDER DATED 19.07.2023:-**

*Present: Mr. Avnish Mittal, Advocate  
for the petitioner.*

*Mr. Shivam Chaudhary, Advocate  
for the respondent.*

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*Learned counsel for the respondent seeks an adjournment to address arguments.*



*Adjourned to 18.12.2023.*

*In the meanwhile, the Rent Controller, Ambala is directed to adjourn the proceedings beyond the date fixed before this Court.*

*19.07.2023”*

**ARGUMENTS ON BEHALF OF RESPONDENT NO.1:-**

5. Learned counsel for respondent No.1, on the other hand, has opposed the present revision petition and has submitted that since it was the present petitioner who had moved an application for framing an additional issue and had denied the relationship of landlord and tenant thus, it was for the present petitioner to prove that there was no relationship of landlord and tenant between the parties. It is submitted that the impugned orders have been rightly passed and onus has been rightly put upon the present petitioner, who is denying the said relationship. It is prayed that the impugned orders be upheld and the present revision petition being meritless be dismissed.

**ANALYSIS AND FINDINGS:-**

6. This Court has heard learned counsel for the petitioner as well as learned counsel for respondent No.1 and finds that the impugned orders to the extent that issue with respect to the relationship of landlord and tenant has been framed in the negative form and onus had been put on the present petitioner/alleged tenant, are against law and to the said extent, the impugned orders deserve to be set aside and the issue regarding the relationship deserves to be re-casted and onus of the same deserves to be put on respondent No.1, who had filed a petition for ejection for the



reasons stated hereinafter.

7. A perusal of the eviction petition (Annexure P-1) would show that respondent No.1 has filed an eviction petition seeking eviction of the present petitioner-Tarun Salhotra and Vishal Batra, who has been impleaded as respondent No.2 in the present case. It is the case of respondent No.1 that Ram Mohan Wahee was the original owner and landlord of the premises in question and the present petitioner was statutory tenant under the said owner/landlord Late Sh. Ram Mohan Wahee at a monthly rent of Rs.3000/-. It is further the case of respondent No.1 in the eviction petition that after the death of Ram Mohan Wahee, respondent No.1 became the owner and landlord, as the said Ram Mohan Wahee had executed a registered Will dated 26.08.2013 with respect to the property in question in favour of respondent No.1 and one Deepak Batra who was impleaded as proforma respondent No.3 in the eviction petition. The ejection of the present petitioner as well as Vishal Batra was sought on the ground of arrears of rent, subletting etc. From the perusal of the eviction petition, it is apparent that it was the case of respondent No.1 that by operation of law, respondent No.1 was the landlord of the premises and that the present petitioner was a tenant under respondent No.1.

8. The present petitioner had filed written statement (Annexure P-2) in which relationship of landlord and tenant had been denied by the present petitioner. In spite of the above, the Rent Controller vide order dated 17.02.2022 (Annexure P-3) did not frame any issue on the aspect of



relationship of landlord and tenant between the parties. The petitioner immediately on 30.05.2022 moved an application under Order 14 Rule 5 CPC (Annexure P-4) for framing an additional issue on the said aspect. In para 4, the said additional issue was highlighted. Para 4 of the application is reproduced hereinbelow:-

*“4. That following issue **“Whether there is a relationship of landlord and tenant between the parties? OPP”**, is to be framed so that finding can be given by Learned Court on the same.”*

9. The said application was opposed but the learned Rent Controller, partly allowed the said application and framed the said issue as issue No.6A but framed it in a negative form and put the onus of the issue on the present petitioner. Issue No.6A, as framed in the order dated 26.08.2022 is reproduced hereinbelow:-

*“6A: Whether there are no relationship of landlord and tenant between the parties?” OPR”*

10. An application filed by the present petitioner for recalling the order dated 26.08.2022, to the extent that issue had been framed in a negative form and also to the extent that onus of the same had been wrongly put on the petitioner, was dismissed vide order dated 15.11.2022.

11. It is a matter of settled law that in case where landlord files an eviction petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, one of the first ingredient which the said landlord is required to prove is that there is a relationship of landlord and tenant with the person whose eviction is sought. The Coordinate Bench of



this Court in *Maj. Parkash Gupta's* case (Supra), had observed that in case where the tenant denies the relationship of landlord and tenant and the person who files the eviction petition fails to establish the said relationship, then, it is the eviction petition which is liable to be dismissed and thus it necessarily follows that onus to prove the relationship would lie upon the person who has filed the eviction petition and casting onus on the alleged tenant would be against law. It would be relevant to note that in the said case, the issue regarding relationship was framed in a negative form and yet, the Coordinate Bench had accepted the arguments raised on behalf of the petitioner therein that onus of the issue was required to be placed on the person who had filed the eviction petition. Relevant portion of the said judgment is reproduced hereinbelow:-

*“The learned Rent Controller framed the following issues:*

*(1) Whether the respondent is liable to be rejected from the premises in dispute on the ground of non-payment of arrears of rent ?*

*(2) **Whether there is no relationship of landlord and tenant between the parties?***

*(3) Whether present petition is not maintainable ? OPR*

*4. Shri Rajiv Kataria, the learned counsel for the petitioner, has argued that Sat Parkash Arora had filed the ejectment application for the ejectment of the revision petitioner. He had specifically pleaded that he had inducted the revision petitioner as a tenant on the top floor of the building in question, at the rate of Rs. 120/- per mensem, which was subsequently raised to Rs.135/- per mensem by the tenant. This did not include the electricity and water charges which were to be paid by the tenant. This plea has been*



*stoutly refuted by the revision petitioner in his reply. In order to succeed in his petition, Sat Parkash Arora, had to establish that he was the landlord of the premises in dispute and the revision-petitioner was his tenant. In this situation, Issue No. 2 should have been, "whether there is relationship of landlord and tenant between the parties ?" and the onus of this issue should have been placed on the petitioner.*

*5. There is a merit in this contention. It was Sat Parkash Arora, the present respondent, who had filed the ejectment petition. He had pleaded that the revision-petitioner had been inducted by him as a tenant in the premises in dispute. This fact had been denied by the tenant. If the petitioner failed to establish this fact the ejectment application would be dismissed. So, the onus to prove this issue will lie on the petitioner who has moved the ejectment application. The learned Rent Controller has acted with material irregularity in the exercise of his discretion by framing issue No. 2 in the present form."*

12. To the similar effect is the judgment of the Bombay High Court in the case of *Laxman Bapu Berad* (Supra), where also the Bombay High Court had observed that the fact that there is a relationship of landlord and tenant is a positive fact and the same has to be proved by way of positive evidence by the party who alleges it and even in case the respondent/alleged tenant denies the same, it would not mean that the respondent/alleged tenant would be casted with the burden of proving that there is no relationship and that any evidence adduced by such party would only be in rebuttal to the evidence which the person filing the



eviction petition may lead in discharge of his initial burden. Accordingly in the said case, the Trial Judge was directed to reframe the said issue in a positive manner casting the burden on the landlord therein to prove the relationship. The law laid down in the above said cases applies on all fours in favour of the petitioner.

13. Keeping in view the abovesaid facts and circumstances and the law laid down in the abovesaid judgments, the present revision petition is allowed and the order dated 26.08.2022 is set aside to the extent that issue has been framed in a negative form and that onus to prove the same has been put on the present petitioner. Order dated 15.11.2022 is also set aside and issue No.6A is re-cast in the following terms:-

***“Whether there is a relationship of landlord and tenant between the parties? OPP”***

14. It would be relevant to note that this Court has not opined on the merits of the said issue and it would be open to both the parties to lead evidence in accordance with law in support of the said issue.

15. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

**15.09.2025**

*Pawan*

**(VIKAS BAHL)**

**JUDGE**

**Whether speaking/reasoned:- Yes/No**

**Whether reportable:- Yes/No**