



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

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CR No.2133 of 2025 (O&amp;M)

Date of Decision :28.04.2025

**Devi Dayal Singla****.....Petitioner****Versus****Mahabir Singh Bedi and another****..... Respondents****CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL**

Present : Mr. Arun K. Kaundal, Advocate and  
Mr. Vikas Chaudhary, Advocate for the petitioner.

**VIKRAM AGGARWAL, J. (Oral):**

The present revision petition is directed against the order dated 20.02.2025 (Annexure P-14), passed by the Court of learned Rent Controller, Panchkula, vide which the application, preferred by the petitioner, under Order XIV Rule 2(2) of the Code of Civil Procedure 1908, (for short 'CPC') for framing and deciding preliminary issue with regard to maintainability of the rent petition, has since been dismissed.

2. The facts, as emanating from the revision petition are that the respondents/landlords preferred a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, (hereinafter referred to as the 'Rent Act') for eviction of the petitioner-tenant (Devi Dayal Singla) from the first floor of House No.276, Sector 18, Panchkula (hereinafter referred to as the 'demised premises') on the ground of non-payment of rent and personal necessity. The eviction petition was opposed by way of written statement (Annexure P-3). During the pendency of the eviction petition, earlier an application under Order VII Rule 11 of CPC (Annexure P-6) was filed for



rejection of the plaint. The said application was opposed by way of reply (Annexure P-7). Ultimately, the application was rejected, vide order dated 04.01.2025 leading to the filing of CR No.271 of 2025. The said civil revision came up for hearing before a co-ordinate Bench of this Court and the same was, however, withdrawn with liberty to file an application for deciding the issue of jurisdiction as a preliminary issue.

3. It is thereafter that an application under order XIV Rule 2 (2) of CPC (Annexure P-13) was filed. It was averred in the application that the age of the demised premises was less than 10 years and, therefore, the Court of learned Rent Controller, did not have the jurisdiction to deal with the eviction petition. The prayer made in the application was that the issue of jurisdiction be treated as a preliminary issue and be decided before proceeding with the trial. The application has been rejected by way of the impugned order, leading to filing of the present revision petition.

4. I have heard learned counsel for the petitioner and have perused the paper book.

5. Learned counsel has submitted that the impugned order is not sustainable. He submits that the demised premises was let out to the petitioner in May 2013 and the eviction petition was filed in June 2022 and when the petitioner had occupied the premises, construction was still going on. Learned counsel submits that the age of the demises premises is less than 10 years and, therefore, the Court of learned Rent Controller, would not have the jurisdiction to try the eviction petition. Learned counsel has also submitted that no sanctioned plan was obtained before raising construction which also shows that the landlord is deliberately trying to hide the age of the building. In support of



his contentions, learned counsel has referred to the judgment of the Supreme Court, rendered in **Civil Appeal No.9695 of 2013 (Asma Lateef & Anr. Vs. Shabbir Ahmad and others)**, decided on 12.01.2024.

6. I have considered the submissions made by learned counsel for the petitioner and find the same to be devoid of merit. As regards the previous revision petition i.e. C.R No.271 of 2025, liberty had only been granted to the petitioner to file an application for deciding the issue of jurisdiction as a preliminary issue. However, at the same time, it had also been clarified by learned Co-ordinate Bench that no opinion had been given on the maintainability or otherwise of any such application and that the same would be considered independently in accordance with law. The application preferred under Order XIV Rule 2(2) of CPC is on record as Annexure-P13. The case set up in the said application is that the age of the demised premises is less than 10 years old, and, therefore, the Rent Controller, would not have any jurisdiction to deal with the matter. It was prayed that under the circumstances, the issue with regard to maintainability of the eviction petition on the ground of jurisdiction be decided after framing a preliminary issue. In the considered opinion of this Court, the Court of learned Rent Controller rightly observed that the said issue could be decided only after parties were permitted to lead evidence. In fact, the Court of learned Rent Controller expressed the *prima facie* opinion that keeping in view and upon consideration of the electricity and sewerage bills, it appeared that period of 10 years had already elapsed and that the application seemed to have been filed with a view to delay the trial. Be that as it may, learned counsel for the petitioner could not point out as to under which provision, the said issue should be treated as a preliminary issue and



should be decided before proceeding with other issues. The judgment in case of **Asma Lateef (supra)** would not come to the aid of the petitioner, for the issue in the said judgment was entirely different. In fact, while dealing with the issue in that case, certain observations were made by the Supreme Court:

**Although not directly arising in the present case, we also wish to observe that the question of jurisdiction would assume importance even at the stage a court considers the question of grant of interim relief. Where interim relief is claimed in a suit before a civil court and the party to be affected by grant of such relief, or any other party to the suit, raises a point of maintainability thereof or that it is barred by law and also contends on that basis that interim relief should not to be granted, grant of relief in whatever form, if at all, ought to be preceded by formation and recording of at least a prima facie satisfaction that the suit is maintainable or that it is not barred by law. Such a satisfaction resting on appreciation of the averments in the plaint, the application for interim relief and the written objection thereto, as well as the relevant law that is cited in support of the objection, would be a part of the court's reasoning of a prima facie case having been set up for interim relief, that the balance of convenience is in favour of the grant and non-grant would cause irreparable harm and prejudice. It would be inappropriate for a court to abstain from recording its prima facie satisfaction on the question of maintainability, yet, proceed to grant protection pro tem on the assumption that the question of maintainability has to be decided as a preliminary issue under Rule 2 of Order XIV, CPC. That could amount to an improper exercise of power. If the court is of the opinion at the stage of hearing the application for interim relief that the suit is barred by law or is otherwise not maintainable, it cannot dismiss it without framing a preliminary issue after the written statement is filed but can most certainly assign such opinion for refusing interim relief. However, if an extraordinary situation arises where it could take time to decide the point of maintainability of the suit and non-grant of protection pro tem pending such decision could lead to irreversible consequences, the court may proceed to make an appropriate order in the manner indicated above justifying the course of action it adopts. In other words, such an order may be passed, if at all required, to avoid irreparable harm or injury or undue hardship to**



**the party claiming the relief and/or to ensure that the proceedings are not rendered infructuous by reason of non-interference by the court.**

7. A combined reading of the observations made by the Supreme Court and the impugned order would show that, in fact, learned Rent Controller expressed a *prima faice* opinion about the maintainability of the eviction petition which, of course, would be subject to the findings arrived at eventually.

8. In view of the aforementioned facts and circumstances, I do not find any merit in the present eviction petition and the same is accordingly dismissed.

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

**(VIKRAM AGGARWAL)**  
**JUDGE**

**28.04.2025**

*Manoj Bhutani*

Whether speaking/reasoned Yes/No  
Whether reportable Yes/No