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

CM-11346-CII-2025 in/and
CR-2643-2025 (O&M)
Date of decision: 02.07.2025

M/s Brij Lal Dhari Lal & Sons and others

...Petitioners

Versus

Dev Raj Bhandari and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Ghulam Nabi Malik, Advocate for the petitioners.

VIKAS BAHL, J. (ORAL)

CM-11346-CII-2025

1. This is an application filed under Section 151 CPC for restoration of the case and recalling of order dated 01.05.2025.

2. For the reasons stated in the application which is duly supported by an affidavit, the present application is allowed and order dated 01.05.2025 is recalled and the main case is restored to its original number.

Main case

1. Challenge in the present revision petition is to the judgment dated 17.03.2025 passed by the Court of Rent Controller, Khanna whereby the petition filed by respondent Nos.1 and 2 under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter to be referred as “the Act of 1949”) for ejectment of the petitioners from the shop in question had



been allowed.

BRIEF FACTS OF THE CASE:-

2. Brief facts of the present case are that respondent Nos.1 and 2 had filed an ejectment petition under Section 13-B of the Act of 1949 for ejectment of the petitioners from the shop in question shown as red in the site plan attached to the petition situated on the ground floor bounded as under:-

*“East- Shop of M/s Ganda Mal Mool Raj
West- Public Medical Hall
North- G.T. Road
South- Godown of M/s Ganda Mal Mool Raj
situated at G.T. Road, Khanna, Distt. Ludhiana”*

3. It was the case of respondent Nos.1 and 2 that Mool Raj, who was father of respondent No.1, was owner of the property in question and after the death of the said Mool Raj, his sons including Dev Raj Bhandari (respondent No.1) had inherited the same and he along with other brothers had become the owners of the property in question. It was also the case of respondent Nos.1 and 2 that respondent No.1 was born in India and was of Indian Origin and had been settled in the United States of America since many years and that he along with his other brothers/partners was co-owner/co-landlord and required the shop in question for carrying on his business. Other averments were also made in the eviction petition.

4. After grant of leave to contest, the petitioners filed their written statement opposing the eviction petition. Rejoinder was also filed by respondent Nos.1 and 2 and on 16.10.2024, the Rent Controller was pleased to frame the following issues:-



“1. Whether the petitioner is entitled for ejectment under section 13-B of East Punjab Urban Rent restrictions Act as prayed for?OPP

2. Whether the petitioner requires the tenancy premises for bonafide use and occupation?OPP

3. Whether the present petition of the petitioner is not maintainable in the present form? OPD

4. Whether the petitioner has no cause of action and locus standi to file the present petition?OPD

5. Relief.”

5. The Rent Controller, vide its detailed judgment dated 17.03.2025 allowed the petition filed under Section 13-B of the Act of 1949 and directed the present petitioners to vacate and hand over the shop in question to respondent Nos.1 and 2 within a period of two months from the date of the order. While passing the said order, the entire evidence and documents on record were duly considered. It was held that respondent No.1 was covered under the definition of “Non Resident Indian” as defined under Section 2(dd) of the Act of 1949. The said finding was given after taking into consideration the law laid down by the Hon’ble Supreme Court in the case of **Baldev Singh Bajwa Vs. Monish Saini**, reported as **(2005) 12 SCC 778** and other judgments. The question raised on behalf of the tenants to the effect as to whether a co-sharer could seek ejectment of the tenant without impleading the other co-sharers was answered in favour of the landlord by taking into consideration various judgments passed by the Hon’ble Supreme Court. The important issue as to whether respondent No.1 was a co-sharer with respect to the demised premises or not was also answered in favour of respondent Nos.1 and 2 herein after taking into consideration the total share



of respondent No.1 in khasra No.3006 and also after taking into consideration the alienations made by respondent No.1 during the pendency of the eviction proceedings, which facts were highlighted on behalf of the present petitioners i.e., tenant. It was observed that respondent No.1, who was initially the owner of 9 marlas 8 sarsahi in khasra No.3006, had sold some part of his share but was still co-owner in the property in question measuring 1 marla 4 sarsahi.

ARGUMENTS RAISED ON BEHALF OF THE PETITIONERS:-

6. The sole argument raised by the learned counsel for the petitioners to challenge the judgment dated 17.03.2025 is to the effect that respondent No.1 i.e., Dev Raj Bhandari, who was held to be “Non Resident Indian”, had sold his entire share in khasra No.3006 during the pendency of the eviction petition vide registered sale deed dated 23.06.2023 Ex.RX (4 marlas) and vide Hibanama dated 15.12.2023 Ex.RY (5 marlas) and was thus left with no right in the suit property. It is argued that respondent No.1 had sold his share to the extent of 4 marlas vide registered sale deed dated 23.06.2023 and to the extent of 5 marlas, vide Hibanama dated 15.12.2023 and had thus, sold total land measuring 9 marlas of his share. Reference has been made to the said sale deed dated 23.06.2023 Ex.RX, vide which, Ajay Bhandari for himself and as general power of attorney of Dev Raj (petitioner) and of Suvikas Bhandari had sold 0 kanals 11-3/4 marlas out of land measuring 1 kanal 12 marlas comprised in khasra No.3006 {learned counsel for the petitioners has pointed out that there is a typing error as in the sale deed (Annexure A-2 attached along with CM-11347-CII-2025), khasra No.3005 has been inadvertently typed and in fact, the said khasra



number is 3006 which is apparent from the vernacular copy of the same which is at page 73 of CM-11347-CII-2025}. It is submitted that it was the specific case of the present petitioners that Dev Raj Bhandari had sold 4 marlas of land as per mutation No.69099 and as per mutation No.69901, he had further gifted 5 marlas of land and thus, total area of 9 marlas has been sold by respondent No.1.

7. Learned counsel for the petitioners, in support of his arguments, has further referred to the cross-examination of PW1 Ajay Bhandari who in the said cross-examination had stated that it was correct that due to financial need, Dev Raj Bhandari (respondent No.1) had sold his entire share out of khasra No.3006 and that now he is neither having any share nor any concern nor any right in khasra No.3006. It is submitted that since respondent No.1 had sold his entire share during the pendency of eviction petition thus, respondent No.1 had no locus standi to pursue the case and to seek eviction of the petitioners. It is argued that once NRI landlord does not have any right in the property in question, eviction petition filed by him under Section 13-B of the Act of 1949 has to be rejected and the impugned order allowing the eviction petition deserves to be set aside on the said ground.

ANALYSIS AND FINDINGS:-

8. This Court has heard learned counsel for the petitioners and has perused the paper book and is of the opinion that the impugned judgment is in accordance with law and deserves to be upheld for the reasons detailed hereinafter.

9. The fact that respondent No.1 is a “Non-Resident Indian” and the finding of the Rent Controller on the said aspect has not been disputed



before this Court. Several other aspects and the finding of the Rent Controller on the said aspects have also not been challenged before this Court and the sole argument raised by learned counsel for the petitioners before this Court is on the aspect of as to whether respondent No.1, who was admittedly a co-sharer at the time of institution of petition under Section 13-B of the Act of 1949, was still a co-sharer even after the abovesaid two transfers i.e., sale deed dated 23.06.2023 and Hibanama dated 15.12.2023, had been executed by respondent No.1 and in case was not a co-sharer, then as to whether he had the locus standi to continue with the eviction proceedings. In case the respondent No.1 is held to be still a co-sharer, then the second aspect of the argument raised would become academic. To answer the above issue raised, it is reiterated that the Rent Controller in para 22 of the impugned order, had observed that total share of respondent No.1 (petitioner No.1 before the Rent Controller) in khasra No.3006 was 9 marlas 8 sarsahi. After taking into consideration the sale deed dated 23.06.2023 Ex.RX and also Hibanama/gift deed dated 15.12.2023 Ex.RY, it was observed that respondent No.1 was still the co-owner in khasra No.3006 in which the demised premises measuring 1 marla 4 sarsahi was situated. The observations of the Rent Controller to the effect that respondent No.1 had a share of 9 marlas 8 sarsahi in khasra No.3006 has not been shown to be illegal or against the record and the finding of the Rent Controller on the said aspect has not been challenged before this Court.

10. During the course of arguments, it has been argued that Dev Raj had sold 4 marlas as per mutation No.69099 and 5 marlas as per mutation No.69901, which as per the counsel were the mutations which were entered



into subsequent to the sale deed and the gift deed and thus, even as per the best case projected before this Court, the said Dev Raj is stated to have sold 9 marlas of land during the pendency of the case before the Rent Controller. Even in case the abovesaid argument raised by learned counsel for the petitioners is taken to be true on its face value, then also, it is apparent that respondent No.1 would still continue to be owner of approximately 8 sarsahi in khasra No.3006 and would continue to be co-sharer in the same. Moreover, at any rate, on the date of institution of the petition under Section 13-B of the Act of 1949, it could not be disputed that the said respondent No.1 was a co-sharer. Even the argument raised on behalf of the present petitioners that respondent No.1 vide sale deed dated 23.06.2023 had sold his share to the extent of 4 marlas of the land comprised in khasra No.3006 is also not fully correct, inasmuch as, a careful reading of the said sale deed dated 23.06.2023 (annexed as Annexure A-2 along with CM-11347-CII-2025) would show that three persons i.e., Ajay Bhandari, respondent No.1-Dev Raj and Suvikas Bhandari have together, stated to have sold 0 kanal, 11-3/4 marlas and thus, the share which respondent No.1-Dev Raj had sold would come to less than 4 marlas and not 4 marlas, which would further show that the argument raised on behalf of the petitioners that respondent No.1 had no share left in khasra No.3006 was based on misreading of the documents on record. In the said circumstances, the finding given by the Rent Controller, after taking into consideration the documents in question, to the effect that respondent No.1 would still continue to be the co-owner of the demised premises along with his brothers cannot be faulted with.

11. Reliance sought to be placed by learned counsel for the



petitioners on the cross-examination of PW1-Ajay Bhandari and admission made by him would not call for setting aside the finding of the Rent Controller, which is based on documents/revenue record and which finding has not been shown to be either perverse or illegal. It is a matter of settled law that admissions made by the witness of a party, if shown to be contrary to the revenue record/document is not binding on the said party and that for determining ownership rights in immovable property, it is the document of title/revenue record which would prevail over the oral evidence/admission made by a witness of a party. In the case of ***Molar and others Vs. Smt. Santo and others*** reported as ***PLR (1968) 70 P&H 510***, where Smt. Santo had made an admission with respect to the property being ancestral was held to be not binding on her in view of the fact that the revenue record which was produced showed that admission made by her was erroneous. It was further observed that even in case the admission was not validly withdrawn or explained by her, mere admission would not prove the case of the other side as even admissions made are not conclusive proof of the matter admitted. Further, a Coordinate Bench of this Court in the case of ***Gurjant Singh Major and others Vs. Surjit Singh and others*** reported as ***2004(3) RCR (Civil) 93***, had held that land cannot be held to be ancestral property in the hands of a person merely on the basis of admissions, when documentary evidence is available which is contrary to the admission made.

12. In the present case, the finding of the Rent Controller to the effect that respondent No.1 is a co-sharer in the property is thus upheld. Moreover, no law has been cited by the learned counsel for the petitioners to show that respondent No.1 was not entitled to pursue his petition under



Section 13-B of the Act of 1949 in a case when he initially, at the time of filing of petition, was admittedly a co-owner, but was left with no property during the pendency of the said petition. At any rate, the said issue would be academic in the present case, inasmuch as, this Court concurs with the finding of the Rent Controller that respondent No.1 continues to be a co-sharer.

13. Keeping in view the abovesaid facts and circumstances, the impugned judgment is in accordance with law and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

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

02.07.2025

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No