

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

**Reserved on 28th of October, 2024
Pronounced on 17th of January, 2025**

CR No.6559 of 2018 (O&M)

Firm Brij Mohan Mehra

....Petitioner

Versus

Shri Inderjit Puri and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Berjeshwar Singh Jaswal, Advocate
for the petitioner.

Mr. Divanshu Jain, Advocate,
Mr. Minkal Rawal, Advocate and
Mr. Abhinav Goel, Advocate
for the respondents.

PANKAJ JAIN, J.

Tenant is in revision aggrieved of judgment dated 03.07.2018 passed by Appellate Authority under the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the 1949 Act') whereby order passed by Rent Controller, Amritsar dated 01.03.2017 allowing the ejection application filed by the landlord, stands affirmed.

2. For convenience and to avoid confusion, the parties hereinafter are referred to by their legal status i.e. petitioner as tenant and respondent No.1 as landlord.

3. Landlord filed eviction petition under Section 13 of the 1949 Act, claiming that tenant was inducted vide rent note dated 31.12.1991 in the demised premises on monthly rent of Rs.2,000/-. Tenant made major additions and alterations in the demised premises in the year 2006 and the rent was enhanced to Rs.7,000/- per month. Landlord sought ejection of the tenant pleading his *bona fide* need as under :

“That the applicant is old aged person of about 66 years of age and earlier the applicant was carrying on business of brokerage of cloth and now on account of old age and ill health the applicant is unable to carry out brokerage business and as such, the applicant intends to set up his independent and separate cloth business in the demised premises/tenanted premises as shown in red colour in the site plan as stated above. It is pertinent to mention that applicant and his wife are residing in the upper portion forming part of the building in question and if the cloth business is being set up in the demised premises/tenanted premises, the applicant will be in a position to carry out and run business in the same very building especially when he is residing in the upper portion of the building in question as stated above and as such, by way of setting up independent and separate cloth business in the tenanted premises, the applicant will be in a position to earn his livelihood and he will be in a position to maintain himself and his wife and at present the applicant is not having any other source of income and so much so, even the applicant suffered heart attack and paralysis about three years back, but on account of old age, the applicant is unable to carry out any brokerage business of cloth as stated above and as such, keeping in view from any angle, need of the applicant is bonafide and reasonable and even the applicant will be in a position to spent evening of his life along with his. wife in a reasonable, respectable and proper manner by way of earning from the cloth business which is sought to be run in the tenanted premises as stated above.

That it is pertinent to mention that in the building/property in question red portion which has been shown in the site plan, is in possession of the respondents and whereas the portion shown in blue colour is in possession of other tenant i.e. M/s taken on rent by another tenant on the basis of rent note dated 29-4-1986.

That it is worthy to mention that the demised premises/tenanted premises as shown red in the site plan is most suitable non- residential premises which are being required by the applicant for his bonafide use and occupation and the demised premises/tenanted premises as shown in red colour in the site plan are being put to use for the commercial purposes since inception of the tenancy and even demised premises/tenanted premises which is taken on rent by the respondents for business purpose and the same have been put to use for the business i.e. commercial purpose by the respondents.

That the applicant does not own or possess and is not having any other suitable such like premises/ accommodation, non-residential within the urban area of Amritsar and the applicant has not vacated any such accommodation residential character, without of non- sufficient cause in the urban area of Amritsar after commencement of Act III of 1949.

That it is stated that the respondents are having various such like non-residential building/premises in their possession more particularly situated at Golden Temple Road, Katra Dulo and Fatehgarh Churian Road, Amritsar.”

4. Eviction petition was contested by the tenant accusing landlord of concealment of material facts. It was pleaded by the tenant that the petitioner is 70 years of age and is not in position to carry out independent business. He is sitting idle for last more than 20 years. Landlord has huge properties situated in Amritsar, Saharanpur and Dehradun from where he is earning rental income of more than Rs.80,000/- per month. The demised

premises is situated in residential locality and is not a commercial locality. Landlord is a habitual litigant and the present petition is nothing but a ploy to get the rent enhanced. It was further claimed that landlord is issueless and has bequeathed the property in favour of son of his sister, who is also well settled and does not require the premises.

5. On the basis of the pleadings, Rent Controller vide order dated 01.12.2014 framed the following issues:

- “1. Whether the tenanted premises of the respondent is bonafide required by the applicant?OPA.
2. Whether the present application is not maintainable?OPR.
3. Relief.

6. On the application filed by the tenant, Rent Controller vide order dated 7th of February, 2017 framed additional issues:

- “iii) Whether the applicant has not come to the court with clean hands? OPR
- iv) Whether the applicant has suppressed the material facts from the court? OPR”

7. Vide order dated 7th of February, 2017, following issues were finally framed :

- “i) Whether the tenanted premises of the respondent is bonafide required by the applicant?OPP.
- ii). Whether the present application is not maintainable?OPR.
- iii) Whether the applicant has not come to the court with clean hands?OPR
- iv) Whether the applicant has suppressed the material facts from the court?OPR”

8. After analysing evidence brought on record by the parties, Rent Controller found that the need projected by the landlord was *bona fide* and ordered the ejectment of the tenant from the demised premises.

9. In appeal preferred by tenant, the aforesaid findings stands affirmed by the Appellate Authority.

10. During the pendency of the instant revision petition, landlord namely Inderjit Puri died. His LRs have been brought on record by way of CM No.9542-CII of 2019 which stands allowed vide order dated 22.02.2023. Another application bearing CM No.19174-CII of 2024 has been moved by tenant to bring on record agreement to sell dated 21.05.2024 alleged to have been executed by Pooja Rani, LR of landlord, whereby it is being claimed that the LRs agreed to sell property in favour of Ms. Neetu daughter of Sh. Hans Raj Kapoor and Ms. Ranju daughter of Sh. Vijay Ohri for an amount of Rs.1,85,00,000/- and has also received an amount of Rs.40,00,000/- as earnest money.

11. Counsel for the petitioner Mr. Berjeshwar Singh Jaswal, Advocate, thus claims that *bona fide* need as projected by the landlord not only ceased to exist, but his LRs agreed to sell the demised premises further. In view of the subsequent events, it is evident that the *bona fide* need projected by the landlord has attained status of a mere wish, and thus the present revision petition deserves to be allowed and accepted. Mr. Jaswal further points out that no finding was returned by the Rent Controller on the

additional issues framed vide order dated 07.02.2017. Specific plea was raised in the grounds of appeal. Appellate Authority yet chose to ignore the same and thus the impugned orders passed by both the Authorities below cannot be sustained and deserves to be set aside.

12. Per contra, counsel for the respondents submits that the story w.r.t. execution of agreement to sell, is not true and the same cannot be taken into consideration. He submits that in case after eviction tenant finds that the landlord has not occupied the demised premises and has further sold the same, statute itself provides for the remedy. He further submits that so far as subsequent event of death of the landlord is concerned, the same will have no bearing on the fate of the instant revision. Crucial date for deciding *bona fide* need of landlord, is the date of application and it is not necessary that the same should continue till the date of final adjudication of the rights of the parties that too beyond forum of first instance. He further relies upon ratio of law laid by Constitutional Bench of Supreme Court in the case of **Hindustan Petroleum Corporation Ltd. vs. Dilbahar Singh, (2014)9 SCC 78** wherein the scope of the revision under Section 15 of the 1949 Act has been held to be much narrow as compared to regular second appeal. It has been further asserted by counsel representing landlord that where in the *lis*, issues are interconnected, it is always open to the court to decide the issues together. Merely for the reason that the issues were not decided separately, no fault can be found with the judgment. In order to hammer-forth his contention, he relies upon law laid down by Apex Court in the case

of **Shakuntala Bai and others vs. Narayan Dass and others, (2004) 5 SCC 772, Kamleshwar Prasad vs. Pradumanju Agarwal (dead) by Lrs, (1997) 4 SCC 413, Surajmal vs. Radheysham, (1988) 3 SCC 18, N.R. Narayan Swamy vs. B. Francis Jagan, (2001) 6 SCC 473, D. Sasi Kumar vs. Soundararajan vs. Soundararajan, (2019) 9 SCC 282** and that by this Court in the case of **M/s. Gagan Traders and another vs. Jaspreet Singh and another, 2010(1) R.C.R.(Rent) 521, Smt. Darshna Devi vs. Kewal Krishan, 2015(2) R.C.R.(Rent) 285, Sher Singh and another vs. Siri Kishan and others, 2010(4) R.C.R.(Civil) 340, International Institute of Neuro Sciences & Oncology Ltd., Chandigarh and another vs. Sahibjit Singh Sandhu and others, 2017(1) R.C.R.(Rent) 632, Ramesh Chander vs. Amarjit Kaur, 2010(58) R.C.R.(Civil) 888 and Jugal Kishore vs. Om Parkash and others, 2023(2) R.C.R.(Rent) 83.**

13. I have heard counsel for the parties and have carefully gone through records of the case.

14. Coming on to the primary contention raised by counsel for the tenant regarding Rent Controller having failed to return findings on the additional issues, a bare perusal of the order dated 07.02.2017 would reveal that additional issues were indeed framed on the application filed by the tenant. Statement was suffered by counsel representing tenant that he will not lead any evidence, if the issues as mentioned in the application, are framed and the evidence earlier led by the respondent be read after recasting

the issues. The additional issues which were framed vide order dated 07.02.2017 read as under :

- “iii) Whether the applicant has not come to the court with clean hands? OPR
- iv) Whether the applicant has suppressed the material facts from the court? OPR”

15. The pleading in the written statement of the tenant before the Rent Controller relating to the additional issues reads as under :

- “1. That the present petition is not legally maintainable and as such the same is required to be dismissed.
- 2. xxx
- 3. xxx
- 4. That the petitioner has concealed the material facts from the court and he has not come to the court with clean hands and as such the petition is required to be dismissed.”

16. On being asked, counsel for the tenant/petitioner submits that the material concealment relates to filing and withdrawal of the earlier ejectment petition and it is on that ground that the subsequent eviction petition filed by the petitioner, was not maintainable. From the perusal of the ejectment order passed by the Rent Controller, it is evident that the aforesaid plea has been taken care of and has been decided specifically as under:

- “22. Further, learned counsel for the respondent has argued that applicant has previously also filed ejectment petition which has also been dismissed as withdrawn. However, in the considered view of this court, respondent cannot derive any benefit from the

same, as previous ejectment petition has been dismissed as withdrawn on the basis of compromise. Such previous ejectment has been dismissed as withdrawn on 24.5.2006, whereas, the present petition has been filed on 12.11.2013. As such, there is lot of gap with previous petition and filing of present petition.”

17. Trite it is that once the parties have led their evidence and are aware of the rival case, issues lose their significance. Merely for the reason that the issues were not decided separately but together, the judgment cannot be held to be perverse. The plea raised by counsel for the tenant regarding there being no finding on additional issues, cannot be sustained in view of the specific finding given by Rent Controller w.r.t. alleged concealment and plea raised w.r.t. to maintainability of the eviction petition. He is not in position to show any perversity in the said findings recorded by the Rent Controller. He is not in position to dispute that the cause of action pleaded in the earlier eviction petition and the one pleaded in the instant eviction petition, are different. Landlord is not precluded in bringing fresh eviction petition on same ground as cause of action pleaded is fresh and different.

18. In view of above, this Court does not find any reason to non-suit the landlord w.r.t. maintainability of the eviction petition merely on the ground that earlier eviction petition was withdrawn. Consequently, the argument raised w.r.t. additional issues and absence of finding thereon, sans merit and deserves to be rejected.

19. Coming on to the issues of subsequent events i.e. death of the landlord during the pendency of the instant revision petition, Supreme Court in **D. Sasi Kumar's** case (supra) held as under :

“11. Further the High Court has also erroneously arrived at the conclusion that the bonafide occupation as sought should be not only on the date of the petition but it should continue to be there on the date of final adjudication of rights. Firstly, there is no material on record to indicate that the need as pleaded at the time of filing the petition does not subsist at this point. Even otherwise such conclusion cannot be reached, when it cannot be lost sight that the very judicial process consumes a long period and because of the delay in the process if the benefit is declined it would only encourage the tenants to protract the litigation so as to defeat the right. In the instant case it is noticed that the petition filed by the landlord is of the year 2004 which was disposed of by the Rent Controller only in the year 2011. The appeal was thereafter disposed of by the Appellate Authority in the year 2013. The High Court had itself taken time to dispose of the Revision Petition, only on 06.03.2017. The entire delay cannot be attributed to the landlord and deny the relief. If as on the date of filing the petition the requirement subsists and it is proved, the same would be sufficient irrespective of the time lapse in the judicial process coming to an end. This Court in the case of *Gaya Prasad vs. Pradeep Srivastava, (2001) 2 SCC 604* has held that the landlord should not be penalised for the slowness of the legal system and the crucial date for deciding the bonafide requirement of landlord is the date of application for eviction, which we hereby reiterate.”

20. This Court also had an occasion to deal with the same question. After considering various precedents, this Court in **CR No.3589 of 2016**

titled as ‘**Sardari Lal (since deceased) through his LRs vs. Rattan Lal (since deceased) through his LRs & ors.**’, observed as under :

“17.The law regarding effect of death of landlord on the eviction proceedings initiated by him pleading bona-fide need is no more res-integra. Supreme Court in the case of *Carona Ltd. Vs. Parvathy Swaminathan & sons (2007) 89 SCC 559* held as under :-

*“35. The learned counsel for the tenant then submitted that it was obligatory on the courts below including the High Court to take into consideration subsequent events. In support of the submission, our attention has been invited by the counsel to a leading decision of this Court in **Pasupuleti Venkateswarlu v. Motor & General Traders, (1975) 1 SCC 770**. In that case, the plaintiff filed a suit for possession on the ground of personal requirement for starting business. A decree for possession was passed in his favour which was confirmed by the Appellate Court. At the stage of Revision, however, due to subsequent event of acquisition of nonresidential building by the plaintiff-landlord, an application for amendment was made by the defendant-tenant. The High Court allowed the amendment. The plaintiff challenged the said order by approaching this Court. It was contended that the High Court committed an error in taking cognizance of subsequent event which was 'disastrous'. This Court, however, held that the High Court had not committed any illegality in doing so.*

36. Referring to leading cases on the point, Krishna Iyer, J. stated;

"We feel the submissions devoid of substance. First about the jurisdiction and propriety vis-a`-vis circumstances which come into being subsequent to the commencement of the proceedings. It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suit or

institutes the legal proceeding. Equally clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the lis has come to court and has a fundamental impact on the right to relief or the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision or fairplay is not violated, with a view to promote substantial justice-subject, of course, to the absence of other disentitling factors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial Court. If the litigation pends, the power exits, absent other special circumstances repelling resort to that course in law or justice. Rulings on this point are legion, even as situations for applications of this equitable rule are myriad. We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the Court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed."

37. *In our judgment, the law is fairly settled. The basic rule is that the rights of the parties should be determined on the basis of the date of institution of the suit. Thus, if the plaintiff has no cause of action on the date of the filing of the suit, ordinarily, he will not be allowed to take advantage of the cause of action arising subsequent to the filing of the suit. Conversely, no relief will normally be denied to the plaintiff by reason of any subsequent event if at the date of*

the institution of the suit, he has a substantive right to claim such relief.

18. Similarly in the case of ***Usha P.Kuvelkar Vs. Ravindra Subrai Dalvi (2008) 1 RCR (Civil) 108***, Supreme Court held as under :-

*“11. It was tried to be argued by the learned counsel for the respondent that since the landlord had died, the need had expired with him and that the question will have to be examined again regarding the bonafide personal need of the landlord. The question is no more res integra and is covered by the decision of this Court in **Shakuntala Bai & Others vs. Narayan Das &Ors. [(2004) 5 SCC 772]**. This Court has observed:*

“...The bona fide need of the landlord has to be examined as on the date of institution of the proceedings and if a decree for eviction is passed, the death of the landlord during the pendency of the appeal preferred by the tenant will make no difference as his heirs are fully entitled to defend the estate.”

*In the same decision a contrary note expressed by this Court in **P.V. Papanna vs. Padmanabhaiah [(1994) 2 SCC 316]** was held to be in the nature of an obiter. This Court in *Shakuntala Bai &Ors. (supra)* referred to the decision in **ShantilalThakordas vs. ChimanlalMaganlal Telwala [(1976) 4 SCC 417]** and specifically observed that the view expressed in *ShantilalThakordas's* case did not, in any manner, affect the view expressed in *Phool Rani vs. Naubat Rai Ahluwalia [(1973)1 SCC 688]* to the effect that where the death of landlord occurs after the decree for possession has been passed in his favour, his legal heirs are entitled to defend the further proceedings like an appeal and the benefit accrued to them under the decree. Here in*

this case also it is obvious that the original landlord Prabhakar Govind Sinai Kuvelkar had expired only after the eviction order passed by the Additional Rent Controller. This is apart from the fact that the landlord had sought the possession not only for himself but also for his family members. There is a clear reference in Section 23(1)(a)(i) of the Act regarding occupation of the family members of the landlord. In that view the contention raised by the learned counsel for the respondent must be rejected.”

19. This Court in the case of **Smt. Darshna Devi Vs. Kewal Krishan, 2015(1) RentLR 71** dealing with the same issue held as under :-

“9. It is settled principle that the cause of action is to be seen on the date of application and merely because the landlord has died during the pendency of litigation would not be a ground to set aside the relief which the land had earned after leading evidence. Reliance can be placed upon the judgment of this Court in M/s Gagan Traders and another Vs. Jaspreet Singh and another 2010(4) PLR 38 wherein the judgment of the Apex Court in Kamleshwar Prasad Vs. Pradumanju Aggarwal 1997(1) RCR 591 and Shakuntala Bai and others Vs. Narayan Dass and others 2004(5) SCC 772 were kept in mind while dismissing the revision petition of the tenant. Similar view has also been taken by the Apex Court in Usha P. Kuvelkar and others Vs. Ravindra Subrai Dalvi 2008(1) Civil Court Cases 291 wherein it has been held that the requirement is to be seen at the time of filing of the petition. The landlord had himself stepped into the witness box and deposed regarding his need and both the Courts below had found his bonafide requirement just and honest and that it was not for the tenant to dictate the terms and tell where the landlord should settle and carry on his business.

10. *The principle that weighed with the Apex Court was that proceeding takes long time to culminate and that maxim 'actus curiae neminem gravabit' would come into play 'since an act of Court shall prejudice no man.' The principle of law thus laid down in Shakuntala Bai's case (surpa) reads as under:-*

“15. As the preamble shows the Madhya Pradesh Accommodation Control Act, 1961 has been enacted for expeditious trial of eviction cases on the ground of bona fide requirement of landlords and generally to regulate and control eviction of tenants. If the subsequent event like the death of the landlord is to be taken note of at every stage till the decree attains finality, there will be no end to litigation. By the time a second appeal gets decided by the High Court, generally a long period elapses and on such a principle if during this period the landlord who instituted the proceedings dies, the suit will have to be dismissed without going into merits. The same thing may happen in a fresh suit filed by the heirs and it may become an unending process. Taking into consideration the subsequent events may, at times, lead to rendering the whole proceedings taken infructuous and colossal waste of public time. There is no warrant for interpreting a Rent Control legislation in such a manner the basic object of which is to save harassment of tenants from unscrupulous landlords. The object is not to deprive the owners of their properties for all times to come.”

20. Thus trite it is that the rights of the parties need to be determined as they stood on the date of institution of the suit. Where plaintiff has no cause of action on the date of filing of the suit, he cannot be allowed to take advantage of the cause of action arising subsequent to filing of the suit. Conversely, any subsequent event cannot be held to deny the relief to the plaintiff to which he

had a substantive right to claim on the date of institution of the suit. It took 14 long years for the landlord in the Courts to get eviction of the tenant on the ground of bona-fide need. After waiting for 14 years he could not enjoy the vacant possession but unfortunately died. The time spent by the Courts in adjudicating upon the claim of the landlord cannot be held against him.”

21. Thus, merely for the reason that the landlord has died during the pendency of the instant revision petition, this Court does not find any reason to hold that *bonafide* need of the landlord ceased to exist to non-suit the landlord and to allow the instant revision petition.

22. Coming on to the next argument raised by counsel for the tenant regarding execution of agreement to sell by the LR of deceased/landlord, the answer lies in the bare provision itself. Section 13(3)(a) of 1949 Act reads as under:

“13. Eviction of tenants. (1) xxx

(2) xxx

(3) (a) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession -

(i) in the case of a residential [* * *] *[The words 'or a scheduled' omitted by Punjab Act 29 of 1956, Section 2.]* building if -

- (a) he requires it for his own occupation;
- (b) he is not occupying another residential [* * *] *[The words 'or a scheduled' omitted by Punjab Act 29 of 1956, section 2.]* building, [* * *] [***] *[The words 'as the case may be' omitted by Punjab Act 29 of 1956.]* in the urban area concerned; and
- (c) he has not vacated such a building without sufficient cause after the commencement of this Act, in the said urban area;

[(d) it was let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and the tenant has ceased, whether before or after the commencement of this Act, to be in such service or employment: *[Added by Punjab Act 21 of 1957, Section 2.]*

Provided that where the tenant is workman who has been discharged or dismissed by the landlord from his service or employment in contravention of the provisions of the Industrial Disputes Act, 1947, he shall not be liable to be evicted until the competent authority under that Act confirms the order of discharge or dismissal made against him by the landlord.]

[(i-a) In the case of a residential building, if the landlord is a member of the armed forces of the Union of India and requires it for the occupation of his family and if he produces a certificate of the prescribed authority, referred to in Section 7 of the Indian Soldiers (Litigation) Act, 1925, that he is serving under special conditions within the meaning of Section 3 of the Act. *[Sub-paragraph (i-a) added by Punjab Act 6 of 1966, Section 2.]*

Explanation. - For the purposes of this sub-paragraph -

- (1) the certificate of the prescribed authority shall be conclusive evidence that the landlord is serving under special conditions; and
- (2) "family" means such relations of the landlord as ordinarily live with him and are dependent upon him;]

(ii) in the case of [a non-residential building or] *[The words 'a non-residential building or' were omitted by Punjab Act No. 29 of 1956, Section 2(ii)(a).]* rented land, if -

- (a) he requires it for his own use;
- (b) he is not occupying in the urban area concerned for the purpose of his business any other such [building or] *[The words 'building or' were omitted by Punjab Act 29 of*

1956, section 2(ii)(c).] rented land, [as the case may be] *[The words 'as the case may be' were omitted by Punjab Act 29 of 1956.];* and

(c) he has not vacated such [a building or] *[The words 'a building or' were omitted by Punjab Act 29 of 1956, section 3(ii)(c).]* rented land without sufficient cause after the commencement of this Act, in the urban area concerned;

[(iii) in the case of any building or rented land, if he requires it to carry out any building work at the instance of the Government or local authority or any Improvement Trust under some improvement or development scheme or if it has become unsafe or unfit for human habitation;] *[Substituted by Punjab Act 29 of 1956, section 2(iii).]*

(iv) in the case of [any building] *[The words 'any residential building', were substituted for the words 'any building' by Punjab Act 29 of 1956, section 2(iv).]* if he requires it for use as an office, or consulting room by his son who intends to start practice as a lawyer or as a "registered practitioner" within the meaning of that expression as used in the Punjab Medical Registration Act, 1916, or for the residence of his son who is married, if -

(a) his son as aforesaid is not occupying in the urban area concerned any other building for use as office, consulting room or residence, as the case may be; and

(b) his son as aforesaid has not vacated such a building without sufficient cause after the commencement of this Act, in the urban area concerned:

Provided that where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord [shall not, except under sub-paragraph (i-a), be entitled] *[Substituted for the words 'shall not be entitled' by Punjab Act 6 of 1966, section 2.]* to apply under this sub-section before the expiry of such period:

Provided further that where the landlord has obtained possession of [a residential, a scheduled or non-residential building or rented land] [*The words 'a residential building or rented land' were substituted for the words 'a residential, a scheduled or non-residential building or rented land' by Punjab Act 29 of 1956, section 2(v).*] under the provisions of sub-paragraph (i) or sub-paragraph (ii) he shall not be entitled to apply again under the said sub-paragraphs for the possession of any other building of the same class or rented land:

Provided further that where a landlord has obtained possession of any building under the provisions of sub-paragraph (iv) he shall not be entitled to apply again under the said sub-paragraph for the possession of any other building for the use of, or as the case may be, for the residence of the same son.

(b) The Controller shall, if he is satisfied that the claim of the landlord is bona fide make an order directing the tenant to put the landlord in possession of the building or rented land on such date as may be specified by the Controller and if the Controller is not so satisfied, he shall make an order rejecting the application:

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time so as not to exceed three months in the aggregate.

[(c)Where an application is made under sub-paragraph (i-a) of paragraph (a), it shall be disposed of, as far as may be, within a period of one month and if the claim of the landlord is accepted, the Controller shall make an order directing the tenant to put the landlord in possession of the building on a date to be specified in the order and such date shall not be later than fifteen days from the date of the order.] [*Added by Punjab Act 6 of 1966.*]

(4) Where a landlord who has obtained possession of a building or rented land in pursuance of an order under sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) of sub-section (3) [does not himself occupy it or, if possession was obtained by him for his family in pursuance of an order under sub-paragraph (i-a) of paragraph (a) of sub-section (3), his family does not occupy the residential building, or, if possession] [*Substituted for the words 'does not himself occupy it or, if possession' by Punjab Act 6 of 1966, section 2(2).*] was obtained by him on behalf of his son in pursuance of an order under sub-paragraph (iv) of paragraph (a) of sub-section (3), his son does not occupy it for the purpose for which possession was obtained, for a continuous period of twelve months from the date of obtaining possession or where a landlord who has obtained possession of a building under sub-paragraph (iii) of the aforesaid paragraph (a) puts that building to any use or lets it out to any tenant other than the tenant evicted from it, the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of such building or rented land and the Controller shall make an order accordingly.”

23. Thus, wherever tenant is ordered to be evicted on the ground of *bona fide* need under Section 13(3)(a) and the landlord or his family does not occupy the building obtained by him by way of eviction petition for a continuous period of 12 months from the date of obtaining of possession, the evicted tenant has a right to apply to the Controller for an order directing that the possession be restored back to him. In case, the LRs of landlord instead of occupying the demised premises themselves, transfer the same in favour of third party, the petitioner/tenant will have a right to reclaim the possession under Section 13(4) of 1949 Act.

24. In view of above, finding no merit in the instant revision petition, the same is ordered to be dismissed.

25. Pending application, if any, shall also stand disposed off.

January 17, 2025
Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes