

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.2156 of 2011(O&M)

Reserved on:23.12.2014

Date of decision:07.01.2015

M/s Remy Cycle Industries & others

.....Petitioners

Versus

Surinder Pal Singh & others

.....Respondents

CORAM : HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Dr.Surya Parkash, Advocate, for the petitioners.

Mr.Amit Jain, Advocate, for respondent No.1.

G.S.Sandhawalia J.

Challenge in the present revision petition, filed by the petitioner-tenant, is to the order dated 15.02.2011, whereby the application to leave to contest was rejected and eviction was ordered by the Rent Controller, Ludhaina, under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (for short, the 'Act').

The reasoning given by the Court is that the respondent was the son of Sampuran Singh, with whom the petitioner admittedly was a tenant and once the parentage had been established that the respondent had inherited the property from his father and rent had also been paid to him. Keeping in mind the fact that he was an NRI and had been settled abroad and required the premises for his *bona fide* personal necessity being an Engineer on return to India and therefore, eviction order was passed. The aspect that the respondent was having another residential house bearing

No.307, Model Town, Ludhiana, would not be a ground to grant leave to

contest and the earlier petition had been withdrawn merely since an objection had been raised that the tenant had not been sued through a proper person and no triable issue having arisen, the four necessary ingredients having been proved under Section 13-B of the Act, the landlord was to be granted the necessary relief.

A perusal of the paperbook would go on to show that the petition under Section 13-B of the Act was filed by the respondent, initially on 01.10.2001 (Annexure A2) against Tara Singh, the alleged proprietor of the present petitioner-M/s Remy Cycle Industries. The ground taken was that he was an NRI and was holding a passport of Bahrain and he was the owner of plot No.398, situated at Ahluwalia Street, Millerganj, Ludhiana, which was a non-residential building comprising of 3 rooms, office, 2 verandahs and open space in which the petitioner was a tenant and was paying rent and there existed a relationship of landlord-tenant between the parties. The ground of eviction was that he had not paid arrears of rent w.e.f. 01.04.2001 @ Rs.300/- per month besides house tax and the premises were required by the respondent for his personal use and occupation and for his family members as he was a qualified Engineer and was earlier serving in Bahrain. He had left that country and come to India with a view to settle and the eldest son was studying in B.Com 1st year and the younger son studying in plus one. The need was for starting of own business of cycle parts in the property in dispute and it was suitable for establishing a business house as all the facilities, requirements and infrastructure were easily available in and near the said locality. The son would be joining him in the business and he possessed the necessary skill and expertise. A promise had been given to vacate the premises in May,

2001 but the tenant later on resiled for some *mala fide* reasons. It was further alleged that he had the requisite money to demolish the building and establish the business, as per the requirement and therefore, needed the immediate possession of the building. The copy of the passport of the petitioner in proof was attached.

The petitioner, then, had filed an application under Section 18-A of the Act that M/s Remy Cycle Industries was the tenant and paying rent and not Tara Singh, on account of which, an application was filed for withdrawal of the petition with liberty to file another one by impleading the said firm as respondent. Keeping in view the application, the counsel withdrew the first petition, after getting his statement recorded on 12.01.2004.

Thereafter, the petition was filed against the present petitioner in which Tara Singh was arrayed as a partner on the same set of allegations and the factum of the earlier litigation was mentioned specifically and that the present petition had been filed on raising objections by Tara Singh in the first petition. It was specifically pleaded that the respondent was the son of Sampuran Singh and the educational qualifications, certificates of Middle Standard Examination, Higher Secondary Examination and the Bachelor of Science and Engineering from Panjab University were relied upon. The succession certificate issued by the Court of the Sub-Judge 1st Class, Ludhiana in succession application No.39 of 1983, decided on 06.04.1984 and apart from the fact that the respondent was the nominee for the death-cum-retirement gratuity benefits of the father who had served as a Sub-Divisional Officer, were relied upon.

The petitioner filed application under Section 18-A for leave to

defend the case in which the plea was taken that there was no relationship of landlord-tenant between the parties and Surinder Pal Singh was not the owner/landlord as Sampuran Singh did not have any issue and he was son of Pritam Singh. The property had been taken on rent by the petitioner-M/s Remy Cycle Industries, which was a partnership concern and was running for last several years. After the death of Sampuran Singh, his widow, Satwant Kaur had also died and one lady, Balbir Kaur, wife of Pritam Singh started claiming rent and without disclosing her status and admitting her ownership and in order to avoid any complication, rent was paid to her. The respondent had then come with Balbir Kaur and started claiming rent on behalf of Pritam Singh and the rent was paid to him without admitting his status and title. Sampuran Singh had died issueless and Pritam Singh was his brother and he could be the next heir and Balbir Kaur was the wife of Pritam Singh. A false passport had been prepared by the respondent indicating himself to be the son of Sampuran Singh while it was a matter of fact that he was born out of the loins of Pritam Singh and Balbir Kaur. It was alleged that there was another house bearing No.307, Model Town, Ludhiana, which was a commercial property and was lying vacant and could be used by the said owner. Reference was made to the earlier application which had been withdrawn on 12.01.2004 and the second application was not maintainable being barred since under Section 13-B, only one application was maintainable in the lifetime. The owner had no intention to settle in India and would go back to Bahrain. In TS-1, Narain Kaur, widow of Amar Singh and Kartar Devi, widow of Surat Singh, were shown as owner of the property. The factum of *bona fide* requirement was denied that he had left Bahrain with a view to permanently settle in India

and plea taken was that no evidence had been placed on record that he had the money to invest in the business.

In reply to the application, a reference was made to his educational qualifications and certificates, to show that he was son of Sampuran Singh and the succession certificate issued on 06.04.1984 and that Pritam Singh had no concern with the property in dispute, who was an old man of more than 80 years and was not the legal heir of Pritam Singh. The factum of Balbir Kaur claiming rent on behalf of Pritam Singh was also denied or that the passport was wrongly prepared. The property bearing House No.307, Model Town, Ludhiana was not a commercial property and was a residential property and needed large scale renovation. It was denied that he would go back to Bahrain and it was averred that the tenant had no right to challenge the title and that he had not paid rent from 01.04.2001. The ground of *bona fide* requirement was a recurring cause and the landlord was not precluded from instituting fresh proceedings and the TS-1 was no proof of ownership. It was admitted by the tenant that the respondent's children were studying in Mohali and thus, he could not say that he would be going back. The property at House No.307, Model Town, Ludhiana being residential property, needed massive repair and renovation. As noticed, for the reasons recorded, the Rent Controller has allowed the petition.

Counsel for the petitioner has vehemently submitted that the first application was kept pending from 2001 to 2004 and thereafter, the second application has been pending from 2004 to 2011 and leave should have been granted and an opportunity should have been given to the tenant to contest the matter rather than ordering eviction, without recording any

evidence. He has secondly argued that the relationship of landlord-tenant was denied and the respondent had another building at Ludhiana. He had filed a miscellaneous application, placing photographs on record and thus, the leave should have been granted since there was no emergent need, as such. Lastly, he has argued that the second application was not maintainable once the first one had been withdrawn, in view of the fact that Section 13-B provided that the right to apply in respect of such a building would be only once during the lifetime of the owner and the earlier one having been withdrawn, it was not open to the respondent to file the second petition.

Counsel for the respondent, on the other hand, has submitted that the first application was withdrawn in view of the objection raised and the rent had not been paid, as such and there was a relationship of landlord-tenant between the parties. The other building which was available was a residential building which would be clear from the photographs and that was the categorical case. Even otherwise, recovery could be of one building of residential nature or a scheduled building and on account of the conditions being fulfilled under Section 13-B, the order impugned was justified.

After hearing counsel for the parties, this Court is of the opinion that there is no substance in the arguments raised by counsel for the petitioners. Merely because the first application had remained pending from October, 2001 till its withdrawal on 12.01.2004 and the second application was filed on 20.01.2004 and was decided on 15.02.2011, it would not be a ground to deny eviction under Section 13-B of the Act. It is settled principle that the act of the Court can cause no harm to the litigant

as per the maxim "*actus curiae neminem gravabit*". A perusal of the zimni orders which have been appended would go on to show that the matter was being not argued by the counsel for the petitioner and it was only suiting him since the application under Section 18-A of the Act was not being decided. If the Court has taken time to dispose of the matter, that would not be a ground to grant leave to contest which is to be granted keeping in view the fact that a triable issue raised under Section 18-A (4) & (5) has been raised. The Rent Controller may give the tenant leave to contest provided that the affidavit discloses the fact which would disentitle the owner seeking eviction.

The factum of ownership has been amply proved by placing on record educational qualifications wherein Surinder Pal Singh had been shown as son of Sampuran Singh wayback from 16.07.1968 to 1974, in the certificate issued by the Panjab University, much before the litigation commenced. The succession certificate also shows that Satwant Kaur was the widow of Sampuran Singh and the present respondent was arrayed as respondent No.2 and the certificate was given on 03.04.1986. The death-cum-gratuity certificate also showed Surinder Pal Singh as son of Sampuran Singh and he was the nominee of the deceased. In such circumstances, the plea of the respondent being the owner of the property and inheriting the same cannot be doubted. A copy of the passport issued by the competent authority at Bahrain shows that the petitioner is a citizen of India and had been granted a residence permit on 12.05.1992. It was the categorical case of the respondent that he had returned to India and required the non-residential building for his own requirement and wished to set up a business to settle his son.

It has been settled beyond the anvil of doubt in **Baldev Singh Bajwa Vs. Monish Saini 2006 AIR SC 59** that there is a presumption in favour of the NRI owner of the property and the tenant has to show a strong case to be entitled to leave to contest and the enquiry has to be limited to the four requirements which have to be fulfilled, which read as under:

- “(i) that the landlord has to be a owner of the premises in question for a period of 5 years prior to the institution of the petitioner,
- (ii) that the landlord should be non-resident Indian falling within the definition of Section 2(dd) of the Act,
- (iii) that there has to be a intention to return to India,
- (iv) that there has to be a bona fide requirement of the premises in question.”

The Apex Court in **Baldev Singh Bajwa's** case (supra) held that only the abovesaid four issues have to be taken into consideration to show a *prima facie* case for presumption of *bona fide* requirement of the NRI owner landlord. Relevant paragraphs of the judgment read as under:

“19. From the aforesaid decisions the requirement of the landlord of the suit accommodation is to be established as genuine need and not a pretext to get the accommodation vacated. The provisions of Sections 18-A(4) and (5) concede to the tenant's right to defend the proceedings initiated under Section 13-B showing that the requirement of the landlord is not genuine or bona fide. The legislative intent for setting up of a special procedure for NRI landlords is obvious from the legislative intent which has been deliberately designed making distinction between the ordinary landlords and special category of landlords. The Controller's power to give leave to contest the application filed under Section 13-B is restricted by the condition that the affidavit filed by the tenant discloses such fact as would disentitle the landlord from obtaining an order for recovery of possession. It is needless to say that in the summary

proceedings the tenant's right to contest the application would be restricted to the parameters of Section 13-B of the Act. He cannot widen the scope of his defence by relying on any other fact which do not fall within the parameters of Section 13-B. The tenant's defence is restricted and cannot go beyond the scope of the provisions of the Act applicable to the NRI landlord. Under Section 13-B the landlord is entitled for eviction if he requires the suit accommodation for his or her use or the use of the dependant, ordinarily lives with him or her. The requirement would necessarily to be genuine or bona fide requirement and it cannot be said that although the requirement is not genuine or bona fide, he would be entitled to the ejectment of the tenant nor it can be said that in no circumstances the tenant will not be allowed to prove that the requirement of the landlord is not genuine or bona fide. A tenant's right to defend the claim of the landlord under Section 13-B for ejectment would arise if the tenant could be able to show that the landlord in the proceedings is not NRI landlord; that he is not the owner thereof or that his ownership is not for the required period of five years before the institution of proceedings and that the landlord's requirement is not bona fide.

20. The legislative intent of expeditious disposal of the application for ejectment of the tenant filed by the NRI landlord is reflected from the summary procedure prescribed under Section 18-A of the Act of 1949 which requires the Controller to take up the matter on day-to-day basis till the conclusion of the hearing of an application. The Legislature wants the decision of the Controller to be final and does not provide any appeal or second appeal against the order of eviction, it is only the High Court which can exercise the power of consideration of the case, whether the decision of the Controller is in accordance with law. Section 13-B gives right of ejectment to special category of landlord who is NRI (Non Resident Indian); and owner of the premises for five years before action is commenced. Such a landlord is permitted to file an application for ejectment only once during his life time. Sub-s. (3) of Section 13-B imposes a restriction that he shall not

transfer through sale or any other means or lease out the ejected premises before the expiry of the period of five years from the date of taking possession of the said building. Not only that, if there is a breach of any of the conditions of sub-section (3) of Section 13-B, the tenant is given a right of restoration of possession of the said building. Under sub-section (2-B) of Section 19 the landlord has to take possession and keep it for a continuous period of three months and he is prohibited from letting out the whole or any part of such building to any other person except the evicted tenant and any contravention thereof, he shall be liable for punishment of imprisonment to the term which can be extended upto six months. These restrictions and conditions inculcate inbuilt strong presumption that the need of the landlord is genuine. Landlord, after the decree for possession, is bound to possess the accommodation. Landlord is prohibited from transferring it or letting it out for a period of five years. Virtually conditions and restrictions imposed on the NRI landlord makes it improbable for any NRI landlord to approach the Court for ejectment of a tenant unless his need is bona fide. No unscrupulous landlord probably, under this Section, would approach the Court for ejectment of the tenant considering the onerous conditions imposed on him by which practically he is deprived of his right in the property not only as a lessor but also as the owner of the property. There is a restriction imposed even on the transfer of the property by sale or any other manner. The restriction imposed on the landlord by all probability points to the genuine requirement of the landlord. In our view there are inbuilt protections in the relevant provisions, for the tenants that whenever the landlord would approach the court he would approach when his need is genuine and bona fide. It is, of-course, subject to tenant's right to rebut it but with strong and cogent evidence. In our view, the proceeding taken up under Section 13-B by the NRI landlords for the ejectment of the tenant, the Court shall presume that landlord's need pleaded in the petition is genuine and bona fide. But this would not disentitle the tenant from proving that in fact and in law the requirement of the landlord is not genuine. A

heavy burden would lie on the tenant to prove that the requirement of the landlord is not genuine. To prove this fact the tenant will be called upon to give all the necessary facts and particulars supported by documentary evidence, if available, to support his plea in the affidavit itself so that the Controller will be in a position to adjudicate and decide the question of genuine or bona fide requirement of the landlord. A mere assertion on the part of the tenant would not be sufficient to rebut the strong presumption in the landlords' favour that his requirement of occupation of the premises is real and genuine.

21. We cannot subscribe to the submission of the learned counsel appearing for the respondents/landlords, that if the inquiry in the allegation of landlord's need regarding the bona fide and genuineness is permitted, the legislative intent of immediate delivery of possession of the accommodation owned by them would be defeated. Time and again this Court has laid down that legislative intent has to be ascertained according to plain language used in the enactment and basic rule of statutory construction should be preferred which advances the purpose and object of a legislation and not which leads to anomalies, injustice or absurdities. To refer some, they are [K.P. Verghese v. Income Tax Officer, Ernakulam and Anr.](#), [1981] 4 SCC 173; [Babaji Kondaji Garad v. Nasik Merchants Co-operative Bank Ltd., Nasik and Ors.](#), [1984] 2 SCC 50 and [Ravulu Subba Rao and Ors. v. Commnr. of Income- Tax, Madras, AIR](#) (1956) SC 604.”

The ownership is, thus, proved since it is admitted that the earlier owner was Sampuran Singh and sufficient material has been placed on record to show that respondent is none else but the son of Sampuran Singh. The non-residential proof has been placed on record which has been issued by the competent authority at Bahrain, which would qualify the respondent to be an NRI, who had been residing abroad temporarily for employment and would fall under the definition of Section 2(dd) and in view of the

averments made that he has returned to India to do business and to set up his sons also, the *bona fide* requirement had been made out and thus, the necessary ingredients stood proved.

The question of another building being in possession would not stand in the way of the respondent as the right under the Act is in respect of one residential building or one scheduled building and/or non-residential building, each chosen by him under Section 13-B(2) and it has been specifically averred by him that the other building is a residential building and not suitable for commercial purposes of setting up the cycle industry, as pleaded. Since, under the Act, the owner can take possession of one residential building or one scheduled and/or non-residential building and it is settled law that it is not for the tenant to dictate as to which is the building which is suitable to the landlord for his *bona fide* need. Reference can be made to the judgment of the Apex Court in **Sarla Ahuja Vs. United India Assurance Company 1998 (8) SCC 119.** Relevant portion of the judgment reads as under:

“14.The crux of the ground envisaged in clause (e) of Section 14(1) of the Act is that the requirement of the landlord for occupation of the tenanted premises must be bona fide. When a landlord asserts that he requires his building for his own occupation the Rent Controller shall not proceed on the presumption that the requirement is not bona fide. When other conditions of the clause are satisfied and when the landlord shows a prima facie case it is open to the Rent Controller to draw a presumption that the requirement of the landlord is bona fide. It is often said by courts that it is not for the tenant to dictate terms to the landlord as to how else he can adjust himself without getting possession of the tenanted premises. While deciding the question of bona fides of the requirement of the landlord it is quite unnecessary to make an endeavour as to how else the

landlord could have adjusted himself.”

Similarly, in *Atma S.Berar Vs. Mukhtiar Singh (2003) 2 SCC 3* the Apex Court has held that the landlord is the best judge of his requirements and it is not the concern of the Court to dictate as to how and in what manner he should live and prescribe the schedule for his own use. In such circumstances, the argument which is raised that the other building would be well suited, is without any basis.

In similar circumstances, a three Judges Bench of the Apex Court in *Swami Nath Vs. Nirmal Singh 2010 (9) SCC 452* upheld the ejectment order passed by the Rent Controller by noticing that Section 13-B was an exception to the provisions of the Act, to accommodate Non Residential Indians who needed the premises for their purpose. The argument that the NRI landlord was already having some other portion of the building in his possession and would be deemed that he had exhausted his option given under Section 13-B in order to evict other tenants from the premises in question, was rejected. It was held that a narrow meaning is not to be given to the provisions as the right was to get one building vacated in a summary manner. The relevant paragraphs read as under:

“12. Reliance was placed on the decision of this Court in Baldev Singh Bajwa v. Monish Saini, 2005(4) R.C.R.(Civil) 492 : 2005(2) R.C.R.(Rent) 470 : JT 2005 (12) SC 442, where the same question had come up for consideration and it was observed that on a plain reading of the provisions of Section 13-B, it would be obvious that once in a life-time possession is given to an NRI to get one building vacated in a summary manner. It was also submitted that the ownership of the Respondent/landlord in respect of only one building had not been disputed by the Petitioners and the only contention that was raised on their behalf was that each separate tenancy in a building would amount to a separate

unit and after exhausting the right of summary possession once, it was no longer available to the NRI landlord to exercise such an option for the second time to a particular building, which contention had been negated by the Courts below.

13. We have carefully considered the submissions made on behalf of the respective parties and we are unable to agree with the submissions made on behalf of the Petitioners. The interpretation sought to be given to the proviso to Section 13-B(1) of the 1949 Act would lead to an absurd situation which was not contemplated by the legislature while introducing the provisions of Section 13-B by way of amendment in 2001. The very object of the amendment would be frustrated if the narrow and constricted meaning being canvassed on behalf of the petitioners is to be accepted.”

Lastly, the argument which has been raised is that since under Section 13-B of the Act the right to apply is available once during the lifetime and once the earlier application had been withdrawn, the respondent was estopped from filing the second application. It is pertinent to notice that the first petition, as noticed, was withdrawn on the ground of an objection being taken regarding the maintainability of the first petition as it was contended that Remy Cycle Industries, the partnership concern and not Tara Singh, as a proprietor of the firm, was tenant. In view of the said objection taken, a categorical application was filed praying for liberty to withdraw the said eviction application and to file another application. The statement was given by counsel for the respondent and in view of the application moved, he withdrew the earlier petition. The statement reads as under:

“Statement of Mr.S.S.Malik, Advocate, counsel for the petitioner.

In view of the application moved by petitioner, I withdraw the present petition.”

Thus, it is apparent that it was only at the instance of the present petitioner, the earlier petition was withdrawn and that also no decision was taken on merits and therefore, the petitioner cannot seek any benefit from the said withdrawal. Reference can be made to the judgment of this Court in *Surinder Gupta Vs. Hukam Chand 2009 (1) RCR 541* wherein it was held that if the tenant had himself invited the first withdrawal by his objections, he would be estopped by holding that the second petition was barred. It was further held that the circumstances of withdrawal had to be considered and the second petition is not liable to be held as not maintainable if it was at the instance of the tenant himself and the principle of estoppel would come into play. Relevant observations read as under:

“3. The propositions laid down by these decisions strike the other side of the pendulum in certain other decisions laid down by this Court in Mangal Sain Vs. Jiwan Dass reported in 2003 (1) RCR 54 where in the proceedings dealing with Haryana (Control of Rent and Eviction) Act, 1973, this Court held that if a landlord is allowed to withdraw the ejectment application on the ground of formal defect, it has to be inferred that the Court allowed the landlord to file a fresh application. The fact that the order itself did not make a reference granting liberty to file a fresh petition, as such in the judgment was not material. The Supreme Court held in N.R. Narayan Swamy Vs. B. Francis Jagan reported in 2001 HRR 579 held that successive suits for eviction by a landlord on the ground of bona fide requirement if withdrawn without pressing the ground of eviction, the second suit on the same ground was not barred by Order 23 Rule 1 (4). A Full Bench of this Court held in Ram Dass Singh Vs. Sukhdev Kaur that the provisions of Order 23 Rule 1 (3) were not applicable to the proceedings under the Act. The decision of the Full Bench came on reference from a Single Judge who found

that there was contradictory opinion on the same subject in Madan Lal and others Vs. Ram Lal (1978) 80 PLR 388 and Shakuntala Devi Vs. Ramesh Kumar reported in 1980 (1) RLR 327 and noticing that this was an important question of law and authoritative pronouncement was necessary. The Full Bench answered the reference by holding that the provisions of Order 23 Rule 1 (3) of the Code of Civil Procedure was not applicable to the proceedings under the Act.

4. A proper consideration of all the decisions, I am of the view, lay down that an order of withdrawal must be always understood under the particular circumstance when withdrawal was sought. I have already referred to the fact that the tenant had made a specific contention in the earlier round of litigation about the maintainability of the petition that the landlord had filed the petition even one year prior to the actual date of retirement and hence the petition was not maintainable. The landlord's petition for withdrawal was sought on an express statement referring to the fact that the petition had been filed more than one year before the date of his actual retirement and hence the petition was being withdrawn. The Court, while merely passing an order for withdrawal, is deemed to have passed an order only on the basis of what was contended by the parties namely of the tenant's objection regarding the pre-mature filing of the petition and the non-maintainability of such a petition and the landlord acted on such an objection and sought for withdrawal. It is not a case where the landlord has sought for a liberty which was refused by the Court. On the other hand, it was an action of the landlord in responding to an objection about the maintainability as stated by the tenant. The provisions of Order 23 itself is raised on a principle of Public policy that a defendant shall not be vexed with the same nature of suit again and again. It is indeed a provision to protect a defendant but if a defendant had himself invited a second petition by his objection that the earlier petition was pre-mature or not maintainable, he cannot be heard to contend that the second petition was also not maintainable. It will be really a case of estoppel operating against the defendant to contend that the second petition was barred. I,

therefore, reject the contention raised on behalf of the tenant that the subsequent petitions were not maintainable.”

The argument that no permission was granted by the Court is also without any basis as in *Lal Singh Vs. Ajit Singh & another 2008 (3) RCR (Civil) 650* this Court has held that where a application has been made and the statement of withdrawal is there to file on the same cause of action, permission to file fresh petition would be deemed to be there. Relevant observations read as under:

“12. Admittedly, the application moved by the plaintiff is on record as Ex. PW6/1, which contains not only the prayer to withdraw the suit but also to file fresh suit on the same cause of action. It is true that while passing the order, the Sub Judge 1st Class, Tarn Taran, has recorded the statement of the learned counsel for the plaintiff on 05.3.1985 and dismissed the suit as withdrawn and did not advert to the second prayer . But in Surjan Singh's Case (Supra), a similar order was passed which reads that “ in view of the statement of learned counsel for the plaintiffs, the suit is dismissed as withdrawn with no order as to costs. File be consigned”.

13. In the same circumstances, this Court has held that the statement made by learned counsel for the plaintiff has to be read as a whole and the same could not be split up into two parts i.e. permission to withdraw the suit but without adverting to the other request of plaintiff for permission to file a fresh suit for same cause of action.”

Resultantly, keeping the above cumulative discussion, this Court is of the opinion that the order of eviction passed does not warrant interference by this Court in its revisional jurisdiction. Nothing could be pointed out as to whether the case did not fall within the ambit of the provisions of Section 13-B of the Act and therefore, in the absence of any triable issue having been raised by the tenant, this Court is of the opinion

that the order passed by the Rent Controller is well justified and accordingly, the present revision petition is dismissed.

However, in view of the fact that the petitioners are carrying on business in the said premises, they are granted 4 months time, from today, to vacate the premises.

In view of the main revision petition having been dismissed, all the CM applications also stand disposed of.

07.01.2015
sailsh

(G.S.Sandhawalia)
JUDGE