

CR No.8574 of 2015 (O&M)

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

CR No.8574 of 2015 (O&M)

Date of Decision: December 21, 2015

Gurbachan Singh

...Petitioner

Versus

Narinderjit Kaur Anandpuri

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Sumeet Mahajan, Senior Advocate with
Mr. Amit Kohar, Advocate
for the petitioner.

Mr. M.S. Jandiala, Advocate and
Mr. Sanjeev Duggal, Advocate
for the caveator.

AUGUSTINE GEORGE MASI, J. (Oral):

Challenge in this revision petition is to the order dated 28.08.2015 passed by the Rent Controller, Phagwara, whereby, an application for leave to contest petition, has been dismissed.

It is the contention of the learned Senior Counsel for the petitioner that in the eviction petition, it has not been specifically averred by the respondent-landlord that she intends to come back to India and wants to open a 'Food Plaza' in the demised premises. He further asserts that since there are four different shops which have been given different numbers by the Municipal Committee and since an Non-Resident Indian, as per Section 13-B of the East Punjab Urban Rent Restrict Act, 1949, (hereinafter referred to as 'the Act'), is

entitled to eviction of the premises once only in a lifetime, the present petition is not maintainable as one of the shops has been got vacated by her on the basis of compromise or otherwise. He, therefore, contends that the impugned order deserves to be set aside.

Notice of motion.

Mr. M.S. Jandiala, Advocate accepts notice on behalf of the respondent. Caveat discharged.

Counsel for the respondent, on the other hand, asserts that as per the judgment of this Court in CR No.1385 of 2004, titled as 'Lakhwinder Kumar Vs. Pavitter Kaur', decided on 07.09.2009, there is no requirement that the Non-Resident Indian must come back to India and there has to be specific averments to that effect. His further assertion is that all these four shops are single construction with a common lintel thereon. In any case, he asserts that this right of eviction is once qua a premises in a lifetime and therefore, the assertion of the counsel for the petitioner cannot be accepted and deserves to be rejected.

I have considered the submissions made by the learned counsel for the parties and with their able assistance, have gone through the impugned order but do not find any force in the submissions as has been projected by the learned Senior Counsel for the petitioner.

The mandate of the statute as has been explained by the Supreme Court in Baldev Singh Bajwa Vs. Monish Saini, 2005 (2)

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R.C.R. (Rent) 470 where it has been held that there is no such requirement or mandate in law that the landlord must come back to India to settle here. This Court in *Lakhwinder Kumar's* case (supra), relying upon the judgment of the Supreme Court in *Baldev Singh Bajwa's* case (supra) has held the same as has been stated above.

Second contention of the learned Senior Counsel for the petitioner that the premises in question being separate premises and each unit is independent of each other and has been let out to different persons with different numbers assigned by the Municipal Committee and one shop has been got vacated by the respondent-landlord and therefore, the leave to contest should have been granted, cannot be accepted as it would suffice to say that as per Section 13-B of the Act, the right to vacate qua each of the premises could be exercised by the Non-Resident Indian once in a lifetime and not qua only one demised premises subject to other requirement of law.

In view of the above, finding no merit in the present revision petition, the same stands dismissed.

CM No.26734-CII of 2015

In view of the order passed in the main petition, no separate order is required to be passed in the present application and the same stands disposed of as infructuous.

December 21, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**