

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

1.

CR-906-2010 (O&M)  
Date of decision : 13.03.2020

Jagdish Kumar

...Petitioner

Versus

Rattan Kaur and others

...Respondents
2.

CR-2171-2010 (O&M)  
Date of decision : 13.03.2020

Atam Parkash

...Petitioner

Versus

Rattan Kaur and others

...Respondents
3.

CR-2314-2010 (O&M)  
Date of decision : 13.03.2020

Sarwan Singh

...Petitioner

Versus

Rattan Kaur and others

...Respondents
4.

CR-2394-2010 (O&M)  
Date of decision : 13.03.2020

Sarwan Singh

...Petitioner

Versus

Rattan Kaur and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Vikas Bahl, Sr. Advocate with  
Mr. Divanshu Jain, Advocate and  
Mr. Nitish Garg, Advocate and  
Ms. Drishtana Singh, Advocate for the petitioner.

Mr. Arun Jain, Sr. Advocate with  
Mr. Amit Jain, Advocate and  
Mr. Abhishek Dhull, Advocate for the respondent.

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**ANIL KSHETARPAL, J. (ORAL)**

By this order, four revision petitions bearing CR Nos.906, 2171, 2314 and 2394 of 2010, shall stand disposed of.

Legislature has enabled Non-Resident Indians to recover immediate possession of one building from their tenant(s) by filing the petition under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter to be referred as “the 1949 Act”), which is extracted as under:-

**“Section 13-B of the 1949 Act:-**

***Right to recover immediate possession of residential building or scheduled building and/or non-residential building to accrue to Non-resident Indian:-(1)***

*Where an owner is a Non-Resident Indian and returns to India and the residential building or scheduled building and/or non-residential building, as the case may be, let out by him or her, is required for his or her use, or for the use*

*of any one ordinarily living with and dependent on him or her, he or she, may apply to the Controller for immediate possession of such building or buildings, as the case may be:*

*Provided that a right to apply in respect of such a building under this Section, shall be available only after a period of five years from the date of becoming the owner of such a building and shall be available only once during the life time of such an owner.*

*(2) Where the owner referred to in sub-section (1), has let out more than one residential building or scheduled building and/or non-residential building, it shall be open to him or her to make an application under that sub-section in respect of only one residential building or one scheduled building and/or one non-residential building, each chosen by him or her.*

*(3) Where an owner recovers possession of a building under this Section, he or she shall not transfer it through sale or any other means or let it out before the expiry of a period of five years from the date of taking possession of the said building, failing which, the evicted tenant may apply to the Controller for an order directing that he shall be restored the possession of the said building and the Controller shall make an order accordingly.”*

Section 18(A) of the 1949 Act lays down the procedure to be followed while deciding the petitions filed under Section 13-B of the 1949 Act. Sub Section 4 of Section 18(A) of the 1949 Act mandates that the tenant would file an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains the leave from the Controller.

In the present case, affidavit as required was filed. However, the Rent Controller, on appreciation of documents available on the file, declined to grant leave to contest. That is how, these revision petitions have been filed by the tenants.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the orders passed and the requisitioned record.

Learned Senior Counsel appearing on behalf of the petitioners has submitted that the respondents have failed to prove their ownership as no sale deed was produced. He further submitted that the respondents are not proved to be the Non-Resident Indians falling within the definition of Non-Resident Indians defined in Section 2(dd) of the 1949 Act and, therefore, the leave to contest should have been granted. He further submitted that in fact, the property was let out by Teja Singh as owner. He further relied upon a document Annexure P-6, agreement dated 22.11.1997 to contend that Teja Singh is owner of the property who is not a NRI.

On the other hand, learned counsel appearing on behalf of the respondents has submitted that originally the property was purchased by Hari Singh, who was a common ancestor of the respondent in 1950s. In the revenue record, Hari Singh was entered as an owner. After the death of Hari Singh, the property was inherited by his two sons Gian Singh and Mela Singh. Gian Singh also died on 13.04.1969 and the respondents are Class 1 heirs of Gian Singh. He submits that jamabandi proving that the

respondents are owners has been placed on file. He further submitted that the passports of two respondents i.e. Rattan Kaur and Ranjit Singh have been produced which prove that both are Non-Resident Indians. He further submitted that the rent agreement dated 29.09.1999 Annexure P-2 is result of forgery and he further drew attention of the Court to the fact that Teja Singh is brother of Rattan Kaur and has signed the petition filed before the Rent Controller as attorney of respondent Nos.2 to 6.

After critical analysis of the arguments of learned counsel for the parties, this Court proceeds to examine the contentions of learned counsel for the parties. No doubt, no sale deed has been produced by the respondents-landlords to prove their ownership, however, jamabandi has been produced on file which carries presumption of correctness.

On careful perusal of jamabandi, it is apparent that the respondents are owners of the property. Further, careful perusal of the passports of Rattan Kaur and Ranjit Singh, prove that these two respondents are proved to be Non-Resident Indians.

As regards argument of learned counsel that the property was let out by Teja Singh, it must be noticed that Teja Singh is brother of Smt. Rattan Kaur. Obviously, Teja Singh had let out the property on behalf of her sister and her children.

As regards argument of learned counsel with reference to the document Annexure P-6, it may be noted that on the death of Gian Singh who died intestate, six respondents inherited the property as Class 1 heirs. Even if the agreement (Annexure P-6) dated 22.11.1997 is taken into

consideration, still the remaining owners continued to be co-owners. Further, agreement dated 22.11.1997 does not transfer the immovable property worth more than ₹100/- in favour of Teja Singh. Still further, correctness of the agreement dated 22.11.1997 is not admitted by the respondents or Teja Singh. Further, Teja Singh has signed the eviction petition as power of attorney holder of respondent Nos.2 to 6 and not as the owner.

Keeping in view the aforesaid facts, there is no ground to interfere.

Accordingly, all the revision petitions are dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

**13.03.2020**

*Pawan*

**(ANIL KSHETARPAL)  
JUDGE**

**Whether speaking/reasoned:-      Yes/No**

**Whether reportable:-                Yes/No**