

THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) Civil Revision No.3811 of 2018(O&M)
Date of Order:13.03.2020

Balvir Chand ...Petitioner

Versus

Jatinder Singh ..Respondent

(2) Civil Revision No.3815 of 2018(O&M)

Ram Asra ...Petitioner

Versus

Jatinder Singh ..Respondent

(3) Civil Revision No.3839 of 2018(O&M)

Rajan Aggarwal ...Petitioner

Versus

Jatinder Singh ..Respondent

(4) Civil Revision No.3840 of 2018(O&M)

Roshan Lal ...Petitioner

Versus

Jatinder Singh ..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pankaj Jain, Advocate,
for the petitioners(in all the cases)

Dr. Anmol Rattan Sidhu, Sr. Advocate, with
Mr. Raghav Gulati, Advocate and
Ms. Ustat Sandhu, Advocate,
for the respondent(in all the cases)

ANIL KSHETARPAL, J.

By this judgment, Civil Revision Nos.3811, 3815, 3839 and 3840 of 2018 shall stand disposed of as learned counsels for the parties are common and the issue, according to the learned counsels, which require consideration is identical.

Question which this court is called upon to adjudicate is:-

“Once a co-owner in exercise of his right under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 has secured possession of the tenanted premises, whether other co-owner can maintain a separate petition against different tenant(s)?

At the relevant time, Tenancies in the Urban area of the State of Punjab were governed by the provisions of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the 1949 Act'). Section 13-B of the 1949 Act was inserted by Punjab Act no.9 of 2001 with effect from 31.05.2001 enabling the Non Resident Indians to recover immediate possession of residential building or scheduled building and/or non-residential building. However, such right to recover immediate possession was available only once during the life time of such an owner. In other words, the owner could exercise such right under Section 13-B of the 1949 Act only 'once' during his life time.

At this stage, it would be apt to notice definition of 'building', Non-Resident Indian and Section 13-B, which are extracted as under:-

2. Definitions. - *In this Act, unless there is anything repugnant in the subject or context:-*

(a) "building" means any building or part of a building let for any purpose whether being actually used for that purpose or not, including any land, go-downs, out-

houses, or furniture let therewith, but does not include a room in a hotel, hostel or boarding-house;

(dd) "Non-resident Indian" means a person of Indian origin, who is either permanently or temporarily settled outside India in either case -

(a) for or on taking up employment outside India; or

(b) for carrying on a business or vocation outside India; or

(c) for any other purpose, in such circumstances, as would indicate his intention to stay outside India for a uncertain period;

"Section 13-B. Right to recover immediate possession of residential building or scheduled building and or non-residential building 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 or required for his or her use, or for the use of any one ordinary 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.***

Since, facts are identical, therefore, it would be appropriate to take notice of the facts from Civil Revision No.3815 of 2018.

Respondent herein-Jatinder Singh filed four petitions under Section 13-B of the 1949 Act. It was asserted that Jatinder Singh along with his two brothers Gurinder Singh and Narinder Singh are co-owners for the last more than 5 years of the building and they require the tenanted premises for their bonafide requirement.

Pursuant to notice, tenant/petitioner herein filed affidavit seeking leave to contest as provided under Section 18-A of the 1949 Act. In the affidavit, the tenant pleaded as under:-

b) That as per the knowledge of the respondent and perusal of the revenue record the petitioner is co-owner in the land comprised of khasra no.46/7 min (5-19), 46//7 min (0-2) and the attorney of the petitioner got vacated 8 shops and one bank building from different tenants namely Sh. Narinder Kumar, Sh. Rajinder Kumar, Sh. Bhupinder Singh, Sh. Panch Singh, Sh. Sanjeev Kumar, Sh. Jasvinder Singh by filing petition under Section 13-B of East Punjab Urban Rent Restriction Act and the same is joint possession of the petitioner. The petitioner is also in possession over the vacant area situated towards east of shop of Sh. Balbir Chand and West Shop of Sh. Roshan Lal and this is a sufficient commercial property which can be used for running sanitary work. Hence, the petition is not maintainable.

“d) That the petitioner had already filed different petition under Section 13-B of the East Punjab Urban Rent Restriction Act against other occupier of the shops in this Court namely Sh. Rajan Aggarwal S/o sh. Raj Kuamr, Sh. Roshan Lal S/o Sh. Ram Dhan, Balbir Chand S/o Piara Lal Reet Rani Wd/o Sh. Sarabjeet S/o Ram Parkash in this Court. All the shops occupied by the above said persons are separate units and in case the petitioner succeed in getting any of the shops vacated, in that event the petitioner would not require the shop in dispute for their personal necessity. The applicant/respondent has also therefore, a fair and valid ground to contest the present petition on this ground.”

In reply, respondent-Jatinder Singh stated as under:-

“b) In reply to sub para (b), it is submitted that Narinder Singh the brother of the petitioner has got vacated his building from different tenants situated in

the land bearing Khasra nos. mentioned in the petition. The said building was separate building from the building in dispute. The petitioner no doubt is in possession of the vacant area as shown in his site plan but the same is not sufficient for the work the petitioner wants to do in the shop in dispute alongwith the other part of the building.

d) In reply to sub para (d) it is submitted that the petitioner has filed separate petition against different tenants who are in possession as tenants of the petitioner in the building as shown in the attached site plan. All the shops are part of the building and are not different units.”

Learned Rent Controller granted leave to defend but thereafter ordered eviction of the tenants. It is admitted by the landlord that Narinder Singh, one of the co-owner, previously filed a petition under Section 13-B of the 1949 Act, which was allowed and possession of 8 shops from different tenants has already been delivered to the co-owner.

Learned Rent Controller as noticed above in all these cases, has ordered eviction of the tenants/petitioners herein. It may be noted here that learned Rent Controller on considering the pleadings framed the following issues:-

- “1. Whether the respondent is liable to be ejected from the present shop in dispute as prayed for?OPP
2. Whether this court has no jurisdiction to try the present petition?OPR
3. Whether the petition is not maintainable in the present form?OPR
4. Whether petition has no locus standi and cause of

action to file the present petition?OPR

5. Whether petitioner is estopped from filing the present petition by his own acts and conduct?OPR

6. Whether petitioner has not come to the court with clean hands and he has suppressed the true and material facts from this Court?OPR.

7. Relief.”

It is apparent from the reading of the pleadings that three brothers are co-owners of the property. Previous petition was filed by Narinder Singh, one of the co-owner in respect of a building in which respondent-Jatinder Singh is also a co-owner. A co-owner as landlord exercises the right on behalf of other co-owners by filing ejectment petition against the tenants on the basis of doctrine of agency. Such petition filed by a co-owner is for the benefit of and on behalf of all the co-owners. A co-owner is owner of every part of the composite property along with others. He is deemed to be owner of every fraction of the property. A co-owner is entitled to seek ejectment of tenant in premises for the benefit of all other co-owners. Such right is subject to one exception that none of the remaining co-owners objects to such petition filed by a co-owner. It has also been held that even if one of the co-owners happens to be a Non Resident Indian, he does not relinquish his character and status and hence, being Non Resident Indian is entitled to file a petition under Section 13-B of the 1949 Act. Reference in this regard can be made to a Division Bench judgment in **Smt.Bachan Kaur and others vs Kabal Singh and another, 2011 (1) R.C.R(Rent) 368.**

By now it is well settled that one co-owner can file and

maintain a petition on behalf of other co-owners. Reference in this regard can be made to the judgment passed by the Hon'ble Supreme Court in **Sri Ram Pasricha vs. Jagannath, (1976) 4 SCC 184.**

Now the stage is set for finding answer to the question as posed in the previous part of the judgment.

On careful reading of proviso to sub-section (1) of Section 13-B of the 1949 Act and sub-section 2 of Section 13-B, it is apparent that such right to recover immediate possession of the building is available only once during the life time of such owner and that also with respect to only one building of each category. As per the definition of word 'building' defined in Section 2(a), any building or part of a building is a building. Thus, a part of a building is also falls in definition of the word 'building'. Although, the landlords have taken a stand that it was a different building. In any case, in that situation, the restriction provided in sub-section (2) of Section 13-B of the 1949 Act would apply. Hence, subsequent petition is not maintainable, once, in a previous petition, the co-owners have already got possession of the premises by exercising their right under Section 13-B of the 1949 Act.

Learned senior counsel appearing for the respondent has submitted that it is the same building and therefore, as per the definition of the term 'building', a complete building is to be considered as one unit and hence, subsequent petitions are maintainable. He, further submitted that Jatinder Singh has never filed previous petition and therefore, the right in his favour under Section 13-B of the 1949 Act cannot stand defeated merely because other co-owner, Narinder Singh had filed a petition.

On the other hand, learned counsel for the petitioner has

submitted that definition of the word 'building' is clear and categoric. He submitted that building includes a part of the building. He further submitted that this is a special right given to the Non Resident Indian owners to get immediate possession. Once they have availed the benefit under this provision by exercising their right once, they are debarred from filing subsequent petition under Section 13-B of the 1949 Act. He, further submitted that the owners are entitled to file fresh petition under Section 13 of the 1949 Act but second petition under Section 13-B would not be maintainable.

This Court has considered the submissions of learned counsels for the parties and have critically analyzed their arguments. It may be noted here that a co-owner acts on behalf of other co-owners on the basis of doctrine of agency and therefore, it would not be appropriate for this court to accept the arguments of learned senior counsel for the respondent that previous petition was filed only by Narinder Singh. Narinder Singh, being a co-owner, is deemed to have filed the previous petition for the benefit of and on behalf of all the co-owners. Still further, it has come on record that previous petition was also filed with explicit consent of all the co-owners. Hence, subsequent petition filed by a co-owner after availing right by filing a previous petition and successfully getting the order of eviction under Section 13-B, is debarred from filing fresh petition under Section 13-B of the 1949 Act.

Sub-section (2) of Section 13-B of the 1949 Act uses a significant word 'each'. On plain reading of sub-section(2), it comes out that if the owner has let out more than one residential or scheduled and/or a non residential building, he is entitled to make an application for eviction under

Section 13-B of the 1949 Act, with respect to only one residential building or non residential building or scheduled building each chosen by him or her.

In other words, the owner has been given a right by the Legislature to elect and thereafter apply with respect to one building of each category. The words non-residential building, residential building and scheduled buildings are separately defined in Section 2(d), 2(g) and 2(h), which are extracted as under:-

“2. Definitions:-

*(d) **Non-Residential building:-** Non-residential building means a building being used solely for the purpose of business or trade:*

*(g) **Residential building:-** residential building means any building which is not a non-residential building.*

*(h) **Scheduled Building:** Scheduled building means a residential building which is being used by a person engaged in one or more of the professions specified in the Schedule I to this Act, partly for his business and partly for his residence.”*

Thus, Non Resident Indian has been enabled to apply under Section 13-B of the 1949 Act in respect of one building in each category. However, a Non Resident Indian cannot exercise right under Section 13-B of the 1949 Act for more than one building of each category.

Learned senior counsel appearing for the respondent has relied upon para 33 of a judgment passed by the Hon'ble Supreme Court in **Baldev Singh Bajwa vs. Monish Saini, (2005) 12 SCC 778**. Learned Senior counsel has submitted that the Hon'ble Supreme Court has held that the second petition on behalf of co-owner is maintainable even if one co-owner has successfully obtained possession in the previous petition filed under Section 13-B of the 1949 Act.

On careful reading of the judgment passed in the case of Baldev

Singh Bajwa (supra), it is apparent that the landlady along with his son had filed an ejectment petition with regard to suit premises No.3-H, whereas her other son Harbhajan Singh had filed a petition with respect to property bearing No.4-H. Thus, the buildings were separate. It is not clear whether they were co-owners in both the buildings. The attention of the Hon'ble Supreme Court was not drawn to the fact that the landlady in the aforesaid case or her son were also co-owners in property bearing No.4-H.

Learned senior counsel has also relied upon another judgment in *Swami Nath vs. Nirmal Singh, (2010) 9 SCC 452*.

In the aforesaid case, the Hon'ble Supreme Court was examining the issue in the context of landlord who was already in possession of some part of the premises. Although, from the reading of paragraph 6 of the report, it appears that the landlord had already exercised his rights under Section 13-B and got the possession, however, attention of the Hon'ble Supreme Court was never drawn to the issue being examined by this Court.

Learned senior counsel appearing for the respondent-landlord has also relied upon a 3 Judges Bench of the Hon'ble Supreme Court in the case of *Ram Krishan Grover v. Union of India, 2019 SCC OnLine SC 1469* .

Learned Senior counsel has drawn the attention of the Court to paragraph 44 of the report, which in turn refers to the judgments passed by the Hon'ble Supreme Court in Swami Nath (supra) and Baldev Singh Bajwa (supra). The Hon'ble Supreme Court in Ram Krishan Grover had culled out three issues for determination in paragraph 18, which are extracted as under:-

18. To avoid prolixity, we do not propose to refer to the factual matrix as after hearing arguments we had declined to interfere on facts and had heard arguments

on legal issues that can be summarised as under:

(i) The Notification dated 09.10.2009 which extends the Amendment Act to Chandigarh by an executive action in exercise of powers under Section 87 of the Reorganisation Act amounts to and suffers from the vice of excessive delegation as it amends the rent legislation in force in Chandigarh, that is, the Extension Act were enacted by the Parliament in exercise of powers under Article 246(4) of the Constitution.

(ii) The State Legislature of Punjab was incompetent to enact the Amendment Act, for the subject matter and rights of Non- Resident Indians fall under the field of 'Citizenship, Naturalization and Aliens' under Entry 17 of List I; 'Extradition' under Entry 18 of List I and 'Admission into, and Emigration and Expulsion from India; Passports and Visas' under Entry 19 of List I of the Seventh Schedule. The subject matter of legislation is in direct conflict with and repugnant to various Central enactments concerning the rights of Non-Resident Indians including the Citizenship Act, 1955 and the Foreign Exchange Management Act, 1999, etc.

(iii) Section 13-B which gives a preferential right to claim eviction to Non-Residents, including foreigners, is arbitrary, unreasonable and discriminatory, and creates an artificial classification for benefit of Non-Residents vis-à-vis Indian Residents and thus, violates Article 14 of the Constitution.

The Hon'ble Supreme Court proceeded to answer the aforesaid questions accordingly. Therefore, the judgment passed in Ram Krishan Grover(supra) also does not help the respondent.

This matter can be examined from another perspective.

On careful reading of Section 13-B of the 1949 Act, it becomes clear that a Non Resident Indian owner has been given a choice to

elect/select one residential building, scheduled building and non resident building, respectively. Once the Non Resident Indian elects a building which may only be a part of the building then he cannot subsequently file second petition under Section 13-B of the 1949 Act. This will be applicable not only with respect to separate building but also a part of the building which the landowner omitted to opt/elect at the time when 1st petition was filed or possession whereof was not sought when the first petition was filed. It may be noted here for clarification that simultaneous petitions can be filed with respect to various parts of the building which are let out separately. Such petitions would be maintainable as interpreted by the Division Bench as well as the Hon'ble Supreme Court. However, once the Non Resident Indian elects to file petition/petitions and exercises right under Section 13-B, then he is debarred from filing subsequent second petition. Of course, Non Resident Indian, thereafter, is entitled to file a separate petition under Section 13 of the 1949 Act to seek the eviction of other tenants. Section 13-B of the 1949 Act confers a special right on the Non Resident Indian to get immediate possession. Such special right/privilege has to be strictly construed. Any other interpretation would violate the statutory mandate. Proviso to Section 13-B (1) of the 1949 Act would be rendered otiose if the argument of learned senior counsel representing the owner is accepted.

This matter can also be examined from another angle.

Before Section 13-B of the 1949 Act was added, the landlord had the right to apply for eviction of a tenant under Section 13 of the 1949 Act, which is extracted as under:-

13. Eviction of tenants.

(1) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise and whether before or

after the termination of the tenancy, except in accordance with the provisions of this Section, 1[or in pursuance of an order made under Section 13 of the Punjab Urban Rent Restriction Act, 1947, as subsequently amended.

(2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the applicant, is satisfied "

(i) that the tenant has not paid or tendered the rent due by him in respect of the building or rented land within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement, by the last day of the month next following that for which the rent is payable:

Provided that if the tenant on the first hearing of the application for ejectment after due service pays or tenders the arrears of rent and interest at six per cent per annum on such arrears together with the cost of application assessed by the Controller, the tenant shall be deemed to have duly paid or tendered the rent within the time aforesaid;

(ii) That the tenant has after the commencement of this Act without the written consent of the landlord-

(a) Transferred his right under the lease or sublet the entire building or rented land or any portion thereof; or

(b) Used the building or rented land for a purpose other than that for which it was leased, or

(iii) That the tenant has committed such acts as are likely to impair materially the value or utility of the building or rented land, or

(iv) that the tenant has been guilty of such acts and conduct as are a nuisance to the occupiers of buildings in the neighbourhood, or

(v) That where the building is situated in a place other than a hill-station, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause, the Controller may make an order directing the tenant to put the landlord in possession of the building or rented land 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.

(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 building if -

(a) He requires it for his own occupation;

(b) He is not occupying another residential building, 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:

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.

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] 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 6[building or] rented land, 7[as the case may be]; and

(c) He has not vacated such 8 [a building or] 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;]

(iv) in the case of [any residential building] 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 2 [shall not, except under sub-paragraph (i-a), be entitled] to apply under this sub-section before the expiry of such period:

Provided further that where the landlord has obtained possession of 3[a residential, a scheduled or nonresidential

building or rented land] 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 subparagraph (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 bono 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.]

(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) 5 [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] 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.

2 [(4-A) Where a tenant is evicted from a residential building or scheduled building in pursuance of an order made under Section 13-A and the specified landlord, or, as the case may be, the widow, child, grandchild or widowed daughter-in-law of the specified landlord, -

(a) Does not occupy it for a continuous period of three months from the date of such eviction, or

(b) within a period of three years from the date of such eviction of the tenant, lets out the whole or any part of such building, from which the tenant was evicted, to any person other than the tenant, such evicted tenant may apply to the Controller, for an order directing that the possession of the building shall be resorted to

him and the Controller shall make an order accordingly.]

(5) Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation not exceeding one hundred rupees be paid by such landlord to the tenant.”

On careful reading of Section 13 of the 1949 Act, it is apparent that the words used in proviso to Section 13-B of the 1949 Act that such right is available “only once during the life time of such an owner” do not exist in Section 13 of the 1949 Act. Thus, it is clear that there is a mark difference between the right of eviction provided under Section 13-B of the 1949 Act and Section 13 of the 1949 Act. A Non Resident Indian is not debarred from filing a petition under Section 13 of the 1949 Act. However, a special right given to the Non Resident owner to recover immediate possession is available only once. Obviously, the purpose is that a Non Resident Indian, who returns to India is given opportunity to get immediate possession of one building in each category.

With regard to next argument of learned counsel for the respondent, it may be noted that definition of 'building' as provided under Section 2(a) is categorical. The golden rule of interpretation is that plain language used in the statute is to be interpreted by giving literal meaning. The phraseology used in Section 2(a) clearly specifies that building means any building or a part of a building. The Hon'ble Supreme Court has also interpreted that 'building' means 'entire building'. However, it has never been held that a part of the building is not a building. Once a petition under Section 13-B has been filed seeking eviction of the tenant with respect to a part of the building which falls in the definition of 'building' then, he/she/they are debarred from filing fresh petition subsequently, with respect to remaining part of the building under Section 13-B of the 1949

Act. It needs clarification that simultaneous/contemporaneous separate petitions can be filed against different tenants, if they are occupying different parts of a building. However, once the possession of a part of the building has been secured by filing a petition under Section 13-B , subsequent petition would not be maintainable.

It is well settled that every word used in the statute has to be given meaning. The intention of legislature was to restrict the right to recover immediate possession only to one building which may be only a part of a larger building. Hence, the landowner would be deemed to have foregone the right to seek eviction under Section 13-B of the 1949 Act with respect to remaining part of the building.

Learned counsel for the petitioner-tenant is correct in contending that after an owner has availed the benefit under section 13-B of the 1949 Act, he can, thereafter, file a petition under Section 13 of the 1949 Act but cannot avail benefit under Section 13-B of the 1949 Act, as it is restricted only once during the life time of such an owner.

Keeping in view the aforesaid facts, the present petitions deserve to be allowed.

Hence, the revision petitions are allowed. The judgments of eviction are set aside.

13th March, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No