

**CR-2875-2012(O&M) &
other connected case**

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**231(2 cases) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. CR-2875-2012 (O&M)

Kulvinderjit Singh and others

....Petitioners....

vs.

Swaran Singh and another

....Respondents.

2. CR-8130-2014 (O&M)

Kulvinderjit Singh and others

....Petitioners...

vs.

Swaran Singh and others

....Respondents.

DECIDED ON:-09.08.2023

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr.Anuj Raura, Advocate and
Mr. Kabir Gautam, Advocate,
for the petitioner(s).

Ms. Ekta Thakur, Advocate,
for the respondents.

HARKESH MANUJA J. (Oral)

1. This common judgment shall dispose of two civil revision petitions bearing CR-2875-2012 and CR No.8130-2014 as common question of law and fact are involved. The facts are being taken from CR-2875-2012.

2. By way of present revision petition, challenge has been laid to an order dated 21.03.2012, passed by the learned Rent Controller,

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Chandigarh, whereby, an application filed by the petitioners under Section 18-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as "1949 Act") for grant of leave to defend in an eviction petition filed by the respondents-landlords, invoking Section 13(B) of the 1949 Act, came to be rejected.

3. Briefly stating, respondents/landlord, who are settled in UK filed eviction petition under Section 13-B of the 1949 Act, *inter alia* on the ground of bonafide requirement stating that respondent No.1 intended to run an academy, besides, business of electronics items by his wife.

4. In response, petitioners-tenants filed application seeking leave to defend, which came to be dismissed by the learned Rent Controller, Chandigarh, vide order dated 21.03.2012.

5. Assailing the aforesaid order, learned counsel for the petitioners vehemently submits that besides few others, a specific and categoric objection was raised in the application for leave to defend that respondent No.1, who was employed as Teacher sought his retirement on medical grounds being not fit and capable to work and thus, his need was not bonafide. Learned counsel also submits that respondent No.2 unfortunately expired on 07.06.2013, during the pendency of present revision petition, thus, this subsequent fact and its impact was required to be considered viz-a-viz the need pleaded in the eviction petition.

6. On the other hand, learned counsel for respondents-landlords submits that the averments made by the petitioners-tenants in para 7 of the their application for leave to defend as regards the medical condition of respondent No.1 were specifically denied in the reply and thus, the same

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cannot be considered as a ground for grant of leave to defend, especially, in the absence of any material evidence having been produced by the petitioners-tenants in support. She further submits that the eviction petition was filed on the ground of bonafide necessity of both husband & wife and, thus, unfortunate demise of wife-Vimla Kumari would not disentitle the husband to seek eviction of the property as the bonafide need of husband still survives.

8. I have heard learned counsel for the parties and gone through the paper-book.

9. Although, the retirement of an individual cannot deprive him of initiating steps to start a new venture at any stage of life, which can either be for keeping himself engaged or even to ameliorate his finances. However, in the facts and circumstances of the present case and in view of a specific and categoric plea raised in the application for grant of leave to defend, while submitting that Swaran Singh-respondent No.1 sought retirement as Teacher on medical grounds and was not fit and capable to work. Unless it was denied categorically and specifically in the reply filed at the instance of respondents-landlords, the same required detailed adjudication based on the documents of retirement of respondents besides pertaining to his health condition which can be established by affording an opportunity to the petitioners-tenants to prove their defence and could not be brushed aside lightly. The issue raised goes to the root of controversy and the same can only be decided on proper appreciation of evidence which especially has to come on record from the custody of respondents-landlord being personal in nature. Plea raised on behalf of respondents-landlords appears to have

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substance that the demise of wife-Vimla Kumari would not disentitle respondent No.1-husband to seek eviction on account of his own bonafide necessity invoking Section 13-B of the 1949 Act. In view of the discussion made hereinabove, I deem it appropriate to allow the petitioners-tenants to submit their defence, by setting aside the impugned order dated 21.03.2012.

10. Considering the fact that the eviction petition was filed in the year 2010 and the same is still at the initial stage of adjudication upon application for leave to defend only, the learned Rent Controller, Chandigarh is requested to conclude the proceedings in the eviction petition within a period of three months from today.

11. The parties through their counsels are requested to appear before the learned Rent Controller on 18.08.2023.

12. Accordingly, both the revision petitions are disposed of in view of the aforesaid observation.

09.08.2023
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**(HARKESH MANUJA)
JUDGE**

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