



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision : 18th of October, 2024

CR No.2696 of 2014 (O&M)

Raunki Ram ...Petitioner

Versus

Sohan Singh ...Respondent

CR No.2319 of 2014 (O&M)

Gurmit KaurPetitioner

Versus

Sohan Singh and another ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : None for the petitioner in CR-2696-2014.

Mr. M.S. Sachdev, Advocate
for the petitioner in CR-2319-2014.

Mr. Nitish Garg, Advocate
for the respondent/landlord.

PANKAJ JAIN, J. (ORAL)

These two revision petitions arise out of similar orders in the two eviction petitions filed by same landlord w.r.t. different portions of the same building in possession of different tenants.

2. Landlord filed eviction petition invoking Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as ‘the



Act of 1949') claiming himself to be a Non Resident Indian who is owner of the demised premises. Eviction of the tenants was sought claiming that the petitioner migrated to Canada and worked there for about 35 years. Owing to old age and medical problems, he returned back to India. He wants to establish his own departmental store by constructing building afresh over the plot in question. Both the eviction petitions were instituted on the same date.

3. On service, tenants appeared and filed application seeking leave to contest disputing ownership of the landlord. Though it was admitted that the plot over which the demised premises was standing, was purchased by the landlord vide registered sale deed dated 10th of November, 1971. However, it was disputed that he owns the super structure. It was further claimed that the tenants were not tenants under the eviction petitioner. As per their rent notes, the shop in question was rented out to them by Lachhman Singh s/o Rattan Singh s/o Harnam Singh. It was further claimed that petitioner is not only the legal heir of deceased Lachhman Singh. Petitioner has five more sisters. The said fact has been concealed and in fact the need projected is also not *bona fide* as the real intent of the landlord was to sell the property after getting it vacated from the tenants.

4. Rent Controller dismissed the application filed by tenants seeking leave to contest holding that the petitioner successfully proved himself to be the owner of the demised premises for last more than five



years and that he was a Non Indian Resident, who intends to come back. Rent Controller held that there being presumption attached to the *bona fide* need projected by the landlord under Section 13-B, there was no triable issue which justifies grant of leave to contest. Rent Controller thus held that the landlord having fully fulfilled the ingredients of Section 13-B as enumerated and interpreted by Supreme Court in the case of **Baldev Singh Bajwa vs. Monish Saini, 2005(2) R.C.R. (Rent)470**, the tenants need to be evicted. Rent Controller thus dismissed the application filed by the tenants seeking leave to contest and allowed the application filed by the landlord under Section 13-B of the 1949 Act granting tenants three months' time to hand-over vacant possession of the demised premises.

5. Ld. Counsel for the tenants have assailed the findings recorded by the Rent Controller claiming that the ownership of the landlord was not proved. It is Lachhman Singh who was owner of the property in dispute. The shop in dispute was let out to them by Lachhman Singh. Eviction petitioner who was only one of the successors of Lachhman Singh, at the most has become co-owner of the shop in question. The present petition at the behest of one of the co-owner was not maintainable until and unless it is proved that all the co-owners are Non-Resident Indians and entitled to invoke Section 13-B of the 1949 Act.

6. Per contra, counsel for the landlord relies upon ratio of law laid down by Division Bench of this Court in the case of **Smt. Bachan Kaur**



and others vs. Kabal Singh and another, 2011(1) R.C.R.(Rent) 368 to submit that even one of the co-owners who is an NRI can maintain petition under Section 13-B of the 1949 Act.

7. I have heard counsel for the parties and have carefully gone through records of the case.

8. So far as ingredients of Section 13-B are concerned, the same stand interpreted by Supreme Court in *Baldev Singh Bajwa's* case (supra) wherein Supreme Court held as under:

“26. On the interpretation given by us and on a plain reading of the provisions, once in a lifetime possession is given to a NRI to get one building vacated in a summary manner. A Non-resident Indian landlord is required to prove that:- (i) he is a NRI; (ii) that he has return to India permanently or for the temporary period; (iii) requirement of the accommodation by him or his dependent is genuine and; (iv) he is the owner of the property for the last five years before the institution of the proceedings for ejectment before the Controller. The tenant's affidavit asking for leave to contest the NRI landlord's application should confine to the grounds which NRI landlord is required to prove, to get ejectment under Section 13-B of the Act. The Controller's power to give leave to contest the application filed under Section 13-B circumscribe to the grounds and inquiry to the aspects specified in the Section 13-B. The tenant would be entitled for leave to contest only if he makes a strong case to challenge those grounds. Inquiry would be confined to Section 13-B and no other aspect shall be considered by the Controller.”



9. From the pleadings on record, it stands *prima facie* proved that the plaintiff is owner of the property in question since the year 1971. Even if the case of the tenants is considered, it is not disputed that after demise of Lachhman Singh, eviction petitioner has become one of the co-owners of the suit property and is co-owner for more than 5 years prior to date of filing of the eviction petition.

10. The other issue being raised w.r.t. maintainability of petition under Section 13-B the Act of 1949 by one of the NRI co-owners is concerned, the same is also no more *res integra* and stands answered by Division Bench in ***Bachan Kaur's*** case (supra) observing as under :

“The following questions have been referred to Larger Bench vide order dated 29.9.2010 passed by the learned Single Judge :-

1. Whether NRI/landlord who is a co-owner with the other landlords, who do not have the same status, as that of NRI can maintain a petition for eviction of the tenant from the property jointly owned by all of them ?

2. Whether the premises from which eviction is sought under Section 13-B of the Act is to be let out by NRI/landlord or his duly authorised person acting on his behalf, or it can also include the letting by some other co-owner or predecessor-in-interest in their own right and not under the authority of NRI/landlord ?

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10. A co-owner is owner of each part of the property in husband like manner with other co-owners. He is entitled to seek ejectment of tenant in premises for benefit and for the benefit of all other co-



owners. Such right is subject to one exception that none of the remaining co-owner objects to such action of the petitioning co-owner. If one of the owners happens to be a NRI, he does not relinquish his character and status as that of co-owner. Thus an order of ejectment obtained by a NRI - coowner will bind other co-owners but will not entitle other NRI and/or an co-owner to seek ejectment of tenant from another building either owned solely by such co-owner or jointly with other persons as co-owner in exercise of right of eviction granted to an NRI by Section 13-B of the Punjab Act. Thus in respect of first question of law, it is held that a co-owner, who is Non-Resident Indian, even when other co-owners are not Non-Resident Indians, can maintain a petition for ejectment for the benefit of all the co-owners.

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20. In view of the rights of the co-owner as explained by the Larger Bench Judgment of this Court as well as by the Honble Supreme Court in *M/s India Umbrella Manufacturing Co., Dhannalals cases (supra) and Mahavir Prasad Jain v. Manohar Lal Jain 2006(2) RCR (Civil) 36 : 2006(1) RCR (Rent) 250 : 2006(2) SCC 724*, a co-owner NRI can seek eviction of the tenant in a building though the tenant was not inducted by such NRI and that it is not necessary that all other co-owners should be Non Resident Indians.”

11. In view of above, this Court finds that there is no triable issue raised by the tenants and the Rent Controller rightly held that they were not entitled to leave to contest.

12. Consequently, finding no merit in the present revision petitions, the same are ordered to be dismissed.

13. Pending application, if any, shall also stand disposed off.

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14. A copy of this order be kept on the file of other connected case.

October 18, 2024
Dpr

(Pankaj Jain)
Judge

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