

2024:PHHC:106906



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-1207-2021 (O&M)

Reserved on:-29.07.2024

Pronounced on: 21.08.2024

DR. SHARANJEET SINGH

.... PETITIONER

Vs.

HARSIMRAN SINGH MANCHANDA

.... RESPONDENT

**CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA**

Present:- Mr. Divanshu Jain, Advocate, for the petitioner.

Mr. Sanjeev Sharma, Advocate, for the respondent.

**DEEPAK GUPTA, J.**

Petitioner herein is the tenant before Id. Rent Controller, Khanna in Rent Case No.13 of 2020 titled '*Harsimran Singh Manchanda Vs. Dr. Sharanjeet Singh*'. He is aggrieved by the order dated 18.03.2021 passed by Id. Rent Controller, Khanna, whereby the preliminary objection raised by him regarding the maintainability of the eviction petition filed under Section 13B of the East Punjab Urban Rent Restrictions Act, 1949 [for short 'the 1949 Act'] has been rejected and the respondent-landlord has been granted the second opportunity to file a fresh application for amendment of the head-note of the petition.

2. In order to avoid confusion, parties shall be referred to as 'landlord' and 'tenant'.

3. Perusal of the record would reveal that landlord is a *Non Resident Indian*, presently residing in Australia. He brought the petition under Section 13B of the 1949 Act through his father & attorney Sh. Joginder Singh Manchanda seeking ejectment of the tenant from the demised shop on the ground of non-payment of arrears of rent and the *bona fide* necessity of the

landlord. During proceedings, the tenant moved an application under Section 18A(4) of the 1949 Act seeking leave of the Court to contest the petition on the various grounds as mentioned in the application. While hearing the said application, an objection was raised by the tenant that the petition itself was not maintainable, inasmuch as Punjab Rent Act, 1995 [for short 'the 1995 Act'] had come into force, which had become effective from 30.11.2013 and since the present petition had been filed in 2020, therefore, it was not maintainable. Rejecting the said objection, as raised by the tenant, Id. Rent Controller by way of the impugned order dated 18.03.2021, permitted the landlord to amend the title of the petition by converting it to Section 24(3) of the 1995 Act.

4.1 Assailing the aforesaid order, it is contended by Id. counsel for the tenant (*petitioner herein*) that present case is covered squarely by the decision rendered by this Court in ***Krishan Kumar and others Vs. Kamla Devi and others, 2016(1) RCR (Rent) 525***, whereby the bunch of eviction petitions were disposed of by this Court and the provisions of 1949 Act as well as that of the 1995 Act were interpreted with regard to the NRI cases. It is submitted that said judgment has since been upheld by the Hon'ble Supreme Court and the various SLPs preferred against that judgment stand dismissed.

4.2 Learned counsel submits that while passing the impugned order, Id. Rent Controller has completely erred in law and has misinterpreted and misconstrued the pleadings of the parties as well as the well established principle of law, besides the statutory provisions.

4.3 Giving factual backgrounds, Id. Counsel for the tenant submits that earlier one Mohinder Singh was the owner of the demised premises, from whom the tenant had taken the same on rent in 1985. The said premises along with the adjoining shop and the residential house were purchased by Smt. Bhupinder Kaur, the mother of the present landlord in 1987 and that said Smt. Bhupinder Kaur, employed every tool and device to eject the petitioner from the premises. Those petitions were dismissed. Thereafter, Smt. Bhupinder Kaur transferred the premises vide the transfer deed dated

19.01.2015 to her son i.e. present respondent Harsimran Singh Manchanda, who is permanently settled in Australia. It is contended that said transaction is only paper transaction and a smart move just to oust the petitioner from the demised premises, without there being any genuine need. It is contended further that present petition under Section 13B of the 1949 Act had been filed on 02.07.2020; whereas, w.e.f. 30.11.2013, the 1995 Act had been notified to come into force and the old Act of 1949 stands repealed. Ld. counsel has referred to Section 75 of the 1995 Act in this regard.

4.4 Ld. counsel further contends that when the tenant raised preliminary objection regarding the maintainability of the petition under Section 13B of the 1949 Act, then in order to cover the lacuna, the landlord moved an application to amend the head-note of the petition as *“petition under Section 13B of the East Punjab Urban Rent Restrictions Act, 1949 read with the provisions of Punjab Rent Act, 1995”*. Ld. counsel contends that the learned Rent Controller while rejecting the preliminary objection, directed the landlord to move new application for amendment containing the number of the Section and title as per the 1995 Act.

4.5 It is submitted further that Id. Rent Controller erred in ignoring the fact that even if the landlord is directed to file a new and fresh application for amendment under the correct provisions of the new Rent Act i.e. Section 24(3) of the same, even then the petition would not be maintainable because in the petition under Section 13B of the 1949 Act already filed, the landlord has nowhere averred the necessary averment of Section 24(3) of the 1995 Act to the effect that he has returned to India for permanent residence, which has been categorically observed by this Court in the case of **Krishan Kumar (supra)**. It is argued that while interpreting the provisions of the two Acts in case of **Krishan Kumar (supra)**, it has been held that though under the old Act, the NRI need not return to India for permanent residence but under the new 1995 Act, he should return to India permanently. In this regard, Id. counsel has referred to para 80 of the judgment in the case of **Krishan Kumar (supra)** besides para 82 and some other paras of the judgment.

4.6 Still further, it is argued by Id. counsel that landlord had already filed a petition under Section 24(3) of the 1995 Act in 2018 and that he is intentionally not making the amendment in the title, as was earlier allowed by the Rent Controller.

With all these submissions prayer is made for setting aside the impugned order.

5. Refuting all the aforesaid contentions, Id. counsel for the landlord submitted that the earlier petitions, mentioned at Annexure P1 filed by his mother, were for non-payment of rent for the different periods, as the petitioner herein has been an errant tenant, who never paid the rent in time. Id. counsel contends further that even in 2018, the petition was filed by him (*landlord herein*) for seeking ejectment on the ground of non-payment of rent and not on the ground of *bona fide* necessity. On the other hand, the present petition is for *bona fide* need of the landlord, as he wants to permanently shift to India. Id. counsel contends further that all the necessary ingredients as required under Section 24(3) of the 1995 Act are duly mentioned in the present petition also and therefore, the landlord has already filed the amended title to the petition by converting it to Section 24(3) of the 1995 Act. Ironically, learned counsel for the landlord has also relied upon the same authority i.e. ***Krishan Kumar (supra)***.

6. I have considered submissions of both the sides and have appraised the record carefully.

7. In case of ***Krishan Kumar (supra)***, a Coordinate Bench of this Court disposed of a bunch of eviction petitions and interpreted the provisions of 1949 Act as well as the 1995 Act with regard to the NRI cases. In one of the cases, being disposed of in that bunch bearing CR-5850-2015, a similar objection had been raised by the tenant to the effect that the case had been filed on 21.07.2014, whereas on that date, the 1995 Act had already come into operation and therefore, the petition under Section 13B of the repealed Act could not have been filed at all. This Court referred to Sections 3(1), 38, 50 and 75 of the 1995 Act apart from Section 24(3) of the 1995 Act.

8. Section 38 of the 1995 Act provides about the procedure to be followed by the Rent Authority; whereas Section 50 of the 1995 Act provides for the Jurisdiction, powers and authority of the Appellate Authority. The relevant part of Sections 3; 24(3) and 75 of the 1995 Act, read as under: -

***“3. Premises exempted from the operation of the Act. [Substituted by Punjab Act No. 33 of 2013, dated 16.4.2013]***

- (1) Nothing in this Act shall apply,-
  - (a) to any premises let out before the commencement of this Act;
  - (b) to (f) xxxxxxxxxxxxxx (not relevant here)
- (2) xxxxxxxxxxxxxx

***24. Right to recover immediate possession of premises to accrue to widows, handicapped persons, old persons freedom fighters and non-resident Indians. [Substituted by Punjab Act No. 33 of 2013, dated 16.4.2013]***

- (1) Xxxxx.....
- (2) Xxxxx...
- (3) Where an owner is a non-resident Indian and returns to India for permanent residence, he or she may apply to the Rent Authority for recovery of immediate possession of residential or/and non-residential premises let out by him or her on or prior to the commencement of this Act, which are required for his or her use, or for the Use of any one ordinarily living with and dependent on him or her.”

***75. Repeal and Savings. – (1) On the commencement of this Act, the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act No. III of 1949), is hereby repealed:***

*Provided that such repeal shall not affect,-*

- (a)the previous operation of the Act so repealed or anything duly done or suffered thereunder;*
- (b)any right, privilege, obligation or liability acquired, accrued or incurred*

*under the Act so repealed;*

*(c)any penalty, forfeiture or punishment incurred in respect of any offence*

*committed under the Act so repealed; and*

*(d)any investigation legal proceeding or remedy in respect of any such right, privilege, obligation, liability penalty, forfeiture,*

*and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the repealing Act had not been passed.*

*(2) Notwithstanding the repeal of the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act No. III of 1949), under sub-section (1), all cases and other proceedings in respect of the premises, other than owned by a non-resident Indian, let out prior to the commencement of this Act shall be governed and disposed of in accordance with the provisions of the Act so repealed.”*

9. While interpreting all the aforesaid provisions, it was held by this Court in the case of **Krishan Kumar (supra)** as under: -

“77. Section 3 (1) (a) lays down that the provisions of this Act shall not apply to any premises which are let out before the commencement of this Act; the implication being that even if the premises are owned by an NRI and were let out before the commencement of this Act, they would have to be dealt with under the Act of 1949. On the other hand, Section 24 (3) says that any future petition to be filed by an NRI would be under the present Act notwithstanding the fact that the premises were let out prior to the commencement of this Act. Section 75(1) provides that the East Punjab Urban Rent Restriction Act, 1949 would stand repealed but such repeal should not affect, inter alia any legal proceeding with regard to any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act and any legal proceedings may be instituted, continued or enforced in respect of any such right, liberty, privilege or obligation. Section 75 (2) on the other hand stipulates that premises let out prior to the coming into force of this Act would be governed by the provisions of the repealed Act {in terms of Section 3(1) (a) supra}, except those owned by NRIs. Thus within the same Act we have not only anomalous but even contradictory provisions with regard to NRI-landlords.

78. As per Section 3, all properties which are let out prior to 30.11.2013 would have to be governed by the Act of 1949 but as per Section 75 (2) this would not apply to properties of NRI-landlords. Section 24 (3) makes a different provision. It lays down that any petition filed after 30.11.2013 by an NRI-landlord would have to be filed under the provisions of the 1995 Act notwithstanding the fact that it was let out prior to 30.11.2013. Section 75 (1) also strikes a discordant note and says that any legal proceedings for any remedy for a right which has accrued may be instituted, continued or enforced under the Act of 1949. It is trite to say that all words of every legislation have to be given due effect and all provisions have to be harmoniously construed as far as possible. Support can be taken from ***Union of India & Ors. Vs. Dileep Kumar Singh, Civil Appeal Nos.2466-2467 of 2015 arising out of SLP (Civil) Nos.25565-25569 of 2014 decided on 26.02.2015,*** wherein the Hon'ble Supreme Court held 39 of 51 that :-

"17. This Judgment has been subsequently followed by the High Court of Australia in ***Project Blue Sky Inc. v. Australian Broadcasting Authority, 153 ALR 490***, in the following terms: "A legislative instrument must be construed on the prima facie basis that its provisions are intended to give effect to harmonious goals. Where conflict appears to arise from the language of particular provisions, the conflict must be alleviated, so far as possible, by adjusting the meaning of the competing provisions to achieve that result which will best give effect to the purpose and language of those provisions while maintaining the unity of all the statutory provisions."

79. Keeping these two principles in mind as well as the principle of 'dominant and subservient provisions' as explained by the Supreme Court in ***Commercial Tax Officer, Rajasthan Vs. M/s Binani Cement Ltd. and another, (2014) 3 SCR, 1*** the only harmonious construction which would give effect to these disparate provisions would be to hold that as regards NRI-landlords, those cases which were filed prior to 30.11.2013 would be taken up under the Act of 1949 and those which were filed after that date would have to be filed and proceeded under the 1995 Act, notwithstanding the date of the tenancy."

10. Thereafter, Court considered the material changes, which were brought in the substantive law regarding NRI cases between the Act of 1949

and the 1995 Act, by holding as under: -

“80. Apart from these procedural aspects, the three material changes in the substantive law as regards NRI between the Act of 1949 and the 1995 Act are that under the Act of 1949 the NRI need not return to India for permanent residence while under the 1995 Act he has to return to India permanently. Secondly under the Act of 1949 there was a stipulation that the NRI should have owned the building for five years while there was no such requirement under the 1995 Act. Thirdly under the Act of 1949 a further condition was laid down to the effect that the right of summary eviction would be available only once in a life time and this limitation is imposed upon Landlords mentioned in Section 24(1) of the 1995 Act but is not applicable to NRIs. In sum, one additional condition (viz permanent residence) has been imposed by the 1995 Act, while two conditions (viz ownership for 5 years and the one time in life restriction) have been removed. The next major change is with regard to the remedy provided against an order passed by the Rent Controller. Under the Act of 1949 the remedy of appeal was taken away and under Section 18(A) only a revision lay before this Court. Under the 1995 Act Section 38(7) (e) provides a remedy to a tenant to file an application for review against an order declining leave to defend and Section 50 permits an appeal against any final order.

81. Coming to the averments of the present case, in her eviction petition the landlady averred that she is an old lady aged 72 years and in the evening of her life, wants to stay permanently in India with her husband. Resultantly, as regards the additional condition imposed, learned counsel for the tenant is not in a position to deny that the necessary averment that the landlady wants to come back permanently to India is present in the petition. Therefore, the issue which survives before this Court is whether the landlady can be non-suited for the reason that though the substantive requirement of the 1995 Act has been met yet the petition has been filed under the Act of 1949.

82. In my considered opinion the provisions of the 1995 Act as detailed above, are to say the least, confusing. In view of the anomalous position a landlord cannot be blamed for not having understood the true import and

the interplay between the two Acts. In this situation the only equitable decision on this aspect can be that those NRIs-Landlords who filed petitions after the coming into force of the 1995 Act and made the averments required under the said Act would be entitled to file formal applications for amendment of number of the Section and the title of the Act mentioned therein. However, these tenants would be entitled to the statutory benefits conferred by the 1995 Act in so much as they would have the right to file an application for review against the order declining leave to defend as well as the right to file an appeal against an order of eviction. Such landlords who have not made the necessary averments required by Section 24 of the 1995 Act would however have to be non-suited though they would have the right to file fresh petitions conforming to the requirements of the 1995 Act.”

11. From the above legal position, It would be thus clear that as regards the NRI landlords, the cases, which were filed prior to 30.11.2013 would be taken up under the 1949 Act; whereas; the cases filed after that date would have to be filed and proceeded under the 1995 Act, notwithstanding the date of the tenancy. It has been further held that those NRI landlords, who filed the petitions after coming into force of the 1995 Act and had made the averments as required under the said Act, would be entitled to file formal applications for amendments of the number of the Sections and title of the Act mentioned therein. Such landlords, who would not made the necessary averments required by Section 24 of the 1995 Act, would however had to be non-suited, though they would have the right to file fresh petition conforming to the requirement of the 1995 Act.

12. In the same case i.e. **Krishan Kumar (Supra)**, while disposing of CR-5698-2015 as referred in para Nos.97 to 100, it was noticed that in that case, the petition had been filed on 23.03.2015 i.e. after coming into force of the 1995 Act. Moreover, there was no averment regarding permanent return of the landlord in the eviction petition. It was in these circumstances that rent petition was held to be not maintainable and the landlord was given liberty to file a fresh petition on the same cause of action under the 1995 Act.

13. In the same case i.e. **Krishan Kumar's (Supra)**, while disposing of

CR-8679-2015 referred in para Nos. 110 to 113, the ejectment petition had been filed under the 1949 Act on 03.12.2014. However, the necessary averments of the permanent residence were made in the petition. In these circumstances, it was held by this Court that landlord would require to file a formal application for amendment within one month of the date of the receipt of certified copy of the order and if it is so done, the application of amendment shall be allowed and then the Rent Controller shall proceed further to re-decide the application for leave to defend under the 1995 Act.

13. Coming back to the facts of the present case, it is no doubt true that ejectment petition had been filed by the landlord (*respondent herein*) after coming into force of the 1995 Act, as the petition was filed in 2020. However, the question is ***as to whether the petition filed by the landlord is not maintainable at all and he will have to file a fresh petition under the 1995 Act; or he can be permitted to amend the head-note of the petition by inserting the correct Section and title of the 1995 Act.*** It depends upon *as to whether the necessary ingredients as required under Section 24(3) of the 1995 Act are already pleaded in the petition filed by the landlord or not?*

14. In this regard the relevant part of the contents of the petition (*Annexure P2*) as filed by the landlord is required to be noticed. Para 9 of the petition read as under:

*“That the respondent is liable to be ejected from the demised premises as the petitioner wants the shop in question for his business as the petitioner wants to start his business at Khanna which is his native town. That the old aged parents of petitioner are residing at Khanna. That the mother of the petitioner is not keeping good health and looking to her health and future prospects the petitioner has decided to come back to India and he will be residing in the house of his mother along with his parents situated at the back side of the shop in question.”*

15. The contention of Id. counsel for the tenant is that the landlord has not pleaded that he has returned to India for permanent residence, which is the requirement of Section 24(3) of the 1995 Act and therefore, the present

petition is not maintainable, though he can file a fresh petition under the 1995 Act by pleading the necessary ingredients.

16. This Court does not find any merit in the aforesaid contention. The material changes as brought in the relevant provisions i.e. Section 13B of the 1949 Act and 24(3) of the 1995 Act have been discussed in detail in case of **Krishan Kumar (Supra)** in para No.80 and 81 of the judgment, as have already been reproduced above. It is clear that when the landlord pleads that he wants to come back permanently to India and in the petition, there is averment to this effect, this is sufficient compliance of Section 24(3) of the 1995 Act. It is not the requirement that he has to first come to India and start staying there permanently.

17. This aspect has been duly considered by this Court in various other cases as well.

18. In **Harshan Singh Bamrah's case CR-6473 of 2018, decided on 12.04.2019**, the landlord, who was an NRI initiated proceedings under Section 24 of the Punjab Rent Act seeking eviction of the tenant from the demised premises through his attorney. Objection was raised by counsel for the tenant that the landlord had not returned to India for permanent residence and therefore, the petition was not maintainable. Refuting this contention, it was held by this Court in para No.9 of the judgment as follows:-

“9. An argument has been raised by the learned counsel for the respondent that as per Section 24(3) only such NRI who has returned to India for permanent residence, is entitled to seek eviction. Section 24(3) of the Punjab Rent Act 1995 and Section 13(B) of the East Punjab Urban Rent Restriction Act, 1949 are pari-materia, both enacted for the sole purpose of allowing NRI to be able to seek eviction of their tenants expeditiously. The question that whether a non-resident Indian has to return to India and only then file the eviction petition has already been dealt with in judgment rendered in **Sohan Lal v. Swaran Kaur, 2003 (2) RCR (Rent) 407**, wherein the learned Judge has held that the expression return to India does not necessarily mean permanent return. In the judgment rendered in **Krishan**

**Kumal v. Kamla Devi (supra)**, both Sections i.e. Section 13(B) of the 1949 Act and Section 24(3) of the 1995 Act were considered and the learned single Judge upheld the contention that there was no need for a person to return to India before filing of an eviction petition. The eviction petition under Section 24(3) of the 1995 Act would be maintainable as long as there was an averment made that the landlord wanted to come back to India to reside permanently, which has been done in the present case.”

19. Same view was taken in **Inderpal v. Chanderkant, 2020 (1) RCR (Rent) 402**, to the effect that pleading of the necessary ingredients, whereby the landlord expresses his decision to permanently shift to India alongwith his business etc. is sufficient so as to maintain the petition.

20. In **Sushil Kumar (since deceased) through his LRs and another v. Poonam Prashar”, 2020(2) R.C.R. (Rent) 55**, while interpreting Section 13-B and 18-A of the East Punjab Urban Rent Restriction Act, 1949, it was held by a co-ordinate Bench of this Court that when a suit for eviction is filed by an NRI, it is not necessary for the landlord to first come back to India and thereafter file the petition and wait for orders of the Court, which may take years. Mere intention to return to home country supported by affidavit is sufficient. It is not the requirement of law that landlord before filing the petition under Section 13-B of the 1949 Act must return for good to India.

21. As has been noticed by this Court in **Krishan Kumar's** case (*supra*), the only difference in this regard in 1949 Act and 1995 Act is that though under 1949 Act, NRI need not return to India for permanent residence; whereas under 1995 Act, he has to return to India permanently. However, it does not mean that he has to first return to India and then file the petition. As already noticed that he has to indicate his intention that he intends to permanently shift to India, which was not the requirement under 1949 Act.

22. In **Satish Aggarwal v. Davinder Kumar”, CR No.7104 of 2017, decided on 29.01.2020**, taking the same view in a petition under Section 13-B and 18-A of the Act of 1949, it was held that it was not necessary for the

NRI owner to first settle in India and thereafter, file a petition for eviction of tenant and that landlord cannot be expected to shift to India and sit idle hoping that one day eviction order will be passed. Such interpretation will not be in interest of justice.

23. The contention of a tenant to the effect that NRI landlord has to permanently return to India or that his intentions are to permanently return to India, was considered by Hon'ble Supreme Court while interpreting Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 in **Baldev Singh Bajwa v. Monish Saini**", **Law Finder Doc Id # 86080** and it was observed by the Apex Court as under:-

"23. It is further contended that for according relief under Section 13-B of the Act of 1949, it must be proved by the NRI landlord that he has permanently returned to India or that his intentions are to permanently return to India. The intention to permanently settle down in India should be read into words "return" used in Section 13-B. The specific category of NRI landlord has been created by the Legislature with the intention to provide relief to them who are intending to settle down in India or take up business in India only.....

25. When we read Section 13-B along with the definition of the NRI it is apparent that the person who is a permanently residing outside India can also claim possession under Section 13-B of the Act. All that is required under Section 13-B is that a NRI should return to India and claim the premises for his/her use or for the use of any dependent ordinarily living with him. There is no requirement that he has permanently settled in India on his return or he has returned to India with an intention to permanently settle in India. A NRI may require the accommodation for expansion of his business which he is carrying on in other country or requires the accommodation for his temporary stay. Under Section 13-B, a NRI can also claim ejectment of the tenant from the premises for the purposes of any other person who is dependent on him and is ordinarily living with him, which makes it clear that although a NRI resides permanently in other country, he could get the accommodation vacated for the need of his dependent who ordinarily lives with him and he intends to come to India,

choosing it to be his permanent abode. We do not find any substance in the submissions made by the learned counsel that the words "return to India" under Section 13-B of the Act denote return to India permanently.

26. On the interpretation given by us and on a plain reading of the provisions, once in a lifetime possession is given to 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 returned 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."

24. It is, thus, clear that mere pleading of the ingredient is sufficient for an NRI landlord to the effect that he wants to return to India. As observed by Hon'ble Supreme Court that the intention to permanently settle down in India, which was not there in 1949 Act, should be read into the word 'return' as used under Section 13-B of the Act, 1949. Now the said words '*permanent residence to return to India*' has been specifically mentioned in Section 24 of the Punjab Rent Act, 1995 and therefore, the interpretation as given by Hon'ble Supreme Court is binding upon this Court also. The decision of Hon'ble Supreme Court further reveals that tenant will be entitled for leave to contest, only if he makes a strong case to challenge the grounds, i.e. the requirements of Section 24 of the Punjab Rent Act, 1995. In case, he is not able to make out a case, the leave to contest is not to be granted.

25. In the present case, as far as the status of the landlord to the effect that he is NRI is concerned, the same is not disputed by the tenant. The

other ingredient to the effect that petitioner (landlord) has returned to India for permanent residence, the same has been interpreted in the various cases to the effect that he is not required to return to India for permanent residence and rather, his intention is sufficient that he wants to return to India permanently. The said ingredient is clearly manifested in para No.9 of the petition, as has already been reproduced above, inasmuch as it is pleaded that landlord wants to start his business at Khanna in the demised shop. Besides his old age parents are residing at Khanna. Mother is not keeping well and looking at her health and all the future prospects, it has been decided by the landlord to come back to India, where he will be residing in the house of his mother along with his parents situated at the backside of the demised shop. The pleading to the effect that the landlord has decided to come back to India clearly manifests his intention that he wants to return to India for permanent residence and as such, it is held that necessary ingredients required under Section 24(3) of the 1995 Act are clearly present.

26. Having regard to the entire discussion as above and by relying upon the case of **Krishan Kumar (Supra)**, it is held that Id. Rent Controller did not commit any error in rejecting the preliminary objection raised by the tenant regarding the maintainability of the petition and by permitting the landlord to amend the head-note of his petition so as to correctly mention the Section and title of the petition as per 1995 Act.

Accordingly, present petition is hereby dismissed being devoid of any merits.

21.08.2024

Vivek

(DEEPAK GUPTA)  
JUDGE

|                            |     |
|----------------------------|-----|
| Whether speaking/reasoned? | Yes |
| Whether reportable?        | Yes |