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

CR-10-2025 (O&M)

Date of decision: 08.01.2025

Akaljot Singh

...Petitioner

Versus

Gulshan Rai

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Nitin Gupta, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Challenge in the present revision petition is to the judgment dated 27.03.2018 vide which the Rent Controller had partly allowed the petition filed under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter to be referred as “the 1949 Act”) for the ejectment of the present petitioner from the shop in question. Challenge is also to the judgment dated 10.10.2024 passed by the Appellate Authority, Hoshiarpur vide which the appeal filed by the present petitioner was also dismissed.

2. Learned counsel for the petitioner has submitted that in the present case, the rent petition which had been filed is not *stricto sensu* under the provisions of Section 13-B of the 1949 Act, inasmuch as, other



pleas in addition to the pleas which are relevant for the purpose of adjudication of a petition under Section 13-B of the 1949 Act have also been raised. It is submitted that a plea with respect to the present petitioner not paying the arrears of rent had been raised by the respondent and with respect to the same, specific issue i.e., issue No.1 was framed by the Rent Controller and under the said issue, the assessment order dated 15.01.2018 was passed and the rent was tendered by the petitioner which was accepted by the respondent on 25.01.2018. It is submitted that in a petition under Section 13-B of the 1949 Act, the respondent could not have claimed the arrears of rent and the said plea was taken to misguide the Rent Controller and on the said ground alone, the impugned judgments passed by the Rent Controller and the Appellate Authority deserve to be set aside and the petition filed by the respondent under Section 13-B of the 1949 Act deserves to be rejected.

3. This Court has heard learned counsel for the petitioner and has perused the paper book and finds that the impugned orders are in accordance with law and deserve to be upheld and the present revision petition being meritless, deserves to be dismissed.

4. Although, the petition under Section 13-B of the 1949 Act has not been annexed along with present revision petition but a perusal of the impugned orders would show that the respondent had filed a petition under Section 13-B of the 1949 Act for ejectment from the shop in question which was stated to be under the tenancy of the present petitioner. The Rent Controller vide order dated 27.03.2018, had partly



allowed the said petition and had directed the present petitioner to vacate the shop in dispute and to hand over the possession of the shop within a period of two months.

5. An appeal filed by the present petitioner was also dismissed by the Appellate Authority vide order dated 10.10.2024. The Appellate Authority, on the basis of the revenue record including the jamabandis came to the conclusion that respondent along with his brother Kamal Krishan were the owner/co-owners of the property in question. It was further observed that the respondent was a Non-Resident Indian as defined under Section 2(dd) of the Punjab Act 9 of 2001 and was residing in Italy for the last more than 2 ½ decades and was also a person of Indian origin and for the said purpose, passport Ex.PB and registration certificate Ex.PC were taken into consideration. Even with respect to respondent having the locus standi to file a petition under Section 13-B of the 1949 Act, it was observed that from the documents on record as well as the evidence, it was apparent that the respondent was the landlord of the premises in question and was also a co-owner and was thus, entitled to seek ejectment. In support of its observations, the First Appellate Court had relied upon the judgments passed in the cases titled as **Deepak Maini Vs. Amrik Singh Khatkar** reported as **2011(3) RCR (Civil) 724** and **Smt. Bachan Kaur & others Vs. Kabal Singh & another** reported as **2011(2) RCR (Civil) 886**.

6. It was further observed by the First Appellate Court that even the plea raised by the respondent, who was a NRI, that he wishes to settle



in India and wants to start his own business of electronics in the demised shop was bona fide and there was nothing to rebut the said plea and further it was the landlord who was the best judge of his need and the tenant could not dictate terms to the landlord.

7. The findings of the Court on the aspect of respondent being a NRI, co-owner of the premises in question and having the locus standi to file the case as well as the bona fide of the respondent in seeking eviction have not been challenged before this Court. Moreover, the findings of the Courts below on the said aspects are in accordance with law and on the basis of the documents/evidence produced/led, more so, the jamabandi for the year 2000-01, which is stated to be exhibited as Ex.P4 and which shows that the respondent has been shown as one of the co-owners in the property in question. To the similar effect are the jamabandis for the years 2005-06, 2010-11 which have been duly exhibited as Ex.P5 and Ex.P6. The said documents as well as the documents including the passport and the registration certificate on the basis of which the Courts have come to the conclusion that respondent was a NRI and fulfilled all the ingredients under Section 13-B of the 1949 Act, have neither been shown to be perverse or illegal and thus, the orders passed by the Rent Controller and Appellate Authority are in accordance with law and deserve to be upheld.

8. The sole argument raised by learned counsel for the petitioner to the effect that additional pleas have been taken in the petition under Section 13-B of the 1949 Act, also does not call for setting



aside the impugned orders. With respect to the additional plea of arrears of rent, it would be relevant to note that as is apparent from para 10 of the order passed by the Rent Controller, the order of assessment was passed on 15.01.2018 and the arrears of rent was assessed for a period from 31.12.2013 till 01.01.2018 and thereafter, it was observed that rent was tendered by the present petitioner which was stated to be accepted by the respondent-landlord on 25.01.2018. It is not disputed before this Court that the said order of assessment was never challenged by the petitioner on the ground that the said order of assessment could not have been passed in a petition under Section 13-B of the 1949 Act. Thus, the petitioner is estopped from raising the said plea. Moreover, no law has been cited by learned counsel for the petitioner in order to show that in a case under Section 13-B of the 1949 Act, the arrears of rent cannot be claimed. At any rate, the said issue No.1 had been decided by the Rent Controller in favour of the present petitioner as in pursuance of the assessment order, the present petitioner had tendered the rent and thus, the said point cannot call for setting aside the findings on issue Nos.2 to 5 which have been independently considered and decided.

9. The Rent Controller had decided issue Nos.2 to 5 independently in favour of the respondent and the Appellate Authority had also decided and considered the said issues and had upheld the findings of the Rent Controller on the same. It is a matter of settled law that every ground/issue is to be considered independently and merely because one issue has been decided in favour of a particular party it



would not call for setting aside the findings on the other issues which have been decided in favour of the other party independently, more so, when the said finding has neither been shown to be perverse or illegal.

10. Keeping in view the abovesaid facts and circumstances, the impugned orders are in accordance with law and deserve to be upheld and the present revision petition being meritless, deserves to be dismissed and is accordingly, dismissed.

11. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

08.01.2025

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No