

CR-5284-2008(O&M)

2025.PHHC.057093



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

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Date of Decision: May 01, 2025

NARESH KUMAR GUPTA AND ANOTHERPetitioners

Versus

SOLINDER RAMRespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Ashwani Talwar, Advocate with
Mr. Nikhil Sehrawat, Advocate for the petitioners.

Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Gagandeep Singh, Advocate for the respondent.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition, challenge has been laid to an order dated 06.08.2008 passed by learned Rent Controller, Jalandhar whereby an application filed under Section 18(A) 4 & 5 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as '1949 Act') seeking leave to defend, filed at the instance of petitioners-tenants stands declined thereby directing eviction against them from the residential portion of Kothi No.580, Model Town Jalandhar (hereinafter referred to as the 'demised premises').

2. Briefly stating, while claiming himself to be co-owner of Kothi No.580, Model Town, Jalandhar (hereinafter referred to as 'the building') for the past more than five years and pleading himself to be Non-Resident Indian; presently residing in England, respondent-

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landlord filed an eviction petition against the petitioners-tenants from the demised premises for personal need; having invoked Section 13-B of 1949 Act. It was pleaded that the respondent-landlord and other co-owners of the building intend to come to India with their future generations and stay there.

3. Upon notice, an application under Section 18(A) (4) and (5) of the 1949 Act came to be filed at the instance of petitioners-tenants seeking leave to contest the eviction petition. Reply to the aforesaid application was filed at the instance of respondent-landlord objecting the grant of leave to contest prayed for by the petitioners-tenants. Learned Rent Controller vide its decision dated 06.08.2008 dismissed the application filed by the petitioners-tenants and denied the right of leave to defend thereby, resulting into passing of an order of eviction against them; hence the present revision petition.

4. Impugning the order dated 06.08.2008 passed by the Rent Controller, learned counsel for the petitioners-tenants vehemently submits that leave to contest was required to be granted for the following reasons:-

(a) Other properties owned by the respondent-landlord in the same urban area i.e Jalandhar were never disclosed by him in the eviction petition which caused serious prejudice to the rights of the petitioners-tenants.

(b) The respondent-landlord happened to be co-owner of property No. WX-70, Basti Nav Jalandhar, measuring 31 kanals 6 marlas regarding which an eviction petition was preferred by his other co-owners against tenants therein

while invoking Section 13(B) of the 1949 Act and thus, the petitioners-tenants in his own independent right could not have filed the present eviction petition qua the demised premises as any such preferential right was available during his lifetime for seeking vacation of one building, only and the same already stood availed by the petitioner through his co-owner.

(c) Four other eviction petitions invoking Section 13(B) of 1949 Act regarding 4 shops forming part of building in question i.e. Kothi No.580, Model Town, Jalandhar were filed at the instance of respondent-landlord, as such, he was not entitled to invoke his rights under the same provision, qua the demised premises i.e. the residential portion.

5. In support of his contention, learned counsel for the petitioners-tenants places reliance upon judgments passed by the Hon'ble Supreme Court in cases of **"Inderjeet Kaur Vs. Nirpal Singh"** reported as **"2000(2) RCJ 655"**, **"Baldev Singh Bajwa Vs. Monish Saini"** reported as **"2005(2) RCJ 110"**, and **"Nelson Christopher Vs. Pritam Singh"** reported as **"2010(1) PLR 311"** besides referring to the following cases in support of his submissions:-

(i) **"Harbhajan Singh Vs. Sukhjinder Singh Aulak @ Billa and Anr."** reported as **"2011(3) PLR 703"**. Relevant portion of paragraph 9 thereof is extracted hereunder for reference:-

".....The question, thus, arises as to "whether an NRI landlord, who is a co-owner in two different properties which are in occupation of the tenants, can maintain a petition under Section 13-B of the Act after filing of the petition by his co-owners as NRI

in respect of the other property"? In this regard, in the case of Karnail Singh v. Surinder Singh @ Chhinda, 2006(1) R.C.R. (Rent) 214, this Court has held that one of the NRI landlords, who is the co-owner, is not required to seek express authority or consent of the other co-owners for filing of the eviction petition as the one co-owner filing the suit for eviction against the tenant does so on his own behalf in his own right and as an agent of the other co-owners. The consent of other co-owners is assumed as taken unless it is shown that the other co-owners were not agreeable to eject the tenant and the suit was filed in spite of their disagreement. The term "owner" would also include a co-owner and for that matter, there is an affidavit on record (Annexure P-2) wherein one of the landlords, namely, Sukhjinder Singh Aulak has stated on 09.03.2005 that "I have got no objection if my father Mr. Bhagat Singh and my mother Tripta Rani at present of VPO Rurka Kalan, Tehsil Phillaur, Distt. Jalandhar, Punjab, India, have filed an ejectment petition against all our tenants in building No.7-B, Model Town Market, Jalandhar, Punjab, India" and that "I am also co-sharer in the property bearing No.7-B, Model TownMarket, Jalandhar, Punjab, India". Moreover, in Smt. Bachan Kaur and others' case (supra), it has been held that "thus an order of ejectment obtained by a NRI - co-owner will bind other co-owners but will not entitle other NRI and/or a 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."

(ii) **“Balvir Chand Vs. Jatinder Singh”** reported as **“2020(3) PLR 697”**. Relevant paragraph Nos.30 and 31 thereof are reproduced hereunder for reference:-

“30. 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 categoric. 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.

31. 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.”

(iii) **“Dharampal Sood Vs. Sarwan Singh and Others”**

reported as **“2006(2) RCR (Civil) 806”**. Relevant paragraph 9 thereof is extracted hereunder for reference:-

“9. In view of the said judgment, I am of the opinion that the mere fact that the respondent is a co-owner will not disentitle the respondent from seeking eviction of a tenant of a joint property. Till such time the property is actually partitioned by metes and bounds, the respondent owns every part and every bit of the joint property along with others. Therefore, the respondent is competent to seek eviction u/s 13-B of the Rent Act.”

6. On the other hand, learned Senior counsel appearing on behalf of respondent-landlord submits that in the same urban area,

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ownership of other properties in the name of respondent-landlord and their non-disclosure was not to be treated as fatal to the case of respondent-landlord as the same was never the requirement of Section 13(B) of 1949 Act. With respect to the eviction petition filed at the instance of co-owners of the respondent-landlord regarding property No. WX-70, Basti Nav Jalandhar having invoked Section 13(B) of 1949 Act for their personal necessity, it was submitted that the same was not to defeat the rights of the petitioners-tenants qua the demised premises wherein, the eviction was being sought by the co-owners of respondent-landlord for their own personal bona fide needs. Learned Senior counsel also points out that four other eviction petitions under Section 13 (B) of the 1949 Act, filed at the instance of respondent-landlord relating to the shops forming part of the building in question i.e. Kothi No.580, Model Town, Jalandhar were under the tenancy of different individuals and thus, could not have been treated as bar for the purpose of invoking Section 13(B) of 1949 Act with respect to the demised premises i.e. the residential portion of the same property and that too, when the tenancy was different. In support, learned Senior counsel places reliance upon judgment passed by this Court in case of **“Harvinder Singh and Anr. Vs. Avtar Krishan and Others”** reported as **“2023(1) RCR (Rent) 356”**. Relevant paragraph Nos.10 to 12 thereof are reproduced hereunder for reference:-

“10. The second argument of the learned counsel is with respect to the fact that the respondent is the owner of various other commercial properties and an application filed by the

petitioner before the Rent Controller to direct the respondent to disclose the aforesaid facts was wrongly dismissed.

11. *The aforesaid argument is required to be examined in the context of Section 13-B of the 1949 Act, which is extracted as under:-*

“13-B. Right to recover immediate possession of residential building or scheduled building and or nonresidential 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.

(2) Where the owner referred to in sub-section (1), has let out more than one residential building or scheduled building and/or non-residential building, it shall be open to him or her to make an application under that subsection in respect of only one residential building or one scheduled building and/or one non-residential building, each chosen by him or her.

(3) Where an owner recovers possession of a building under this Section, he or she shall not transfer it through sale or any other means or let it out before the expiry of a period of five years from the date of taking possession of the said building, failing which, the evicted tenant may apply to the Controller for an order directing that he shall be restored the possession of the said building and the Controller shall make an order accordingly."

12. On a careful reading of Section 13-B (1) and (2) of the 1949 Act, it is evident that the statute itself envisages that the owner shall be entitled to file a petition under Section 13-B, which is a special provision, only with respect to one building and only once during the life time. The respondent while filing the petition has claimed that the tenanted premises is suitable to his needs. The respondent has filed a detailed reply to the application for leave to contest disclosing all the relevant facts. Hence, the dismissal of the application by the Rent Controller to direct the respondent to disclose his various other properties does not suffer from any error.”

7. I have heard learned counsel for the parties and gone through the paper-book. I am unable to find substance in the submissions made by learned counsel for the petitioner.

8. A perusal of Section 13(B) of 1949 Act clearly shows that it nowhere enjoins upon the NRI-landlord to disclose or mention about the details of other properties belonging to him/her in the same urban area; as has been specifically required under Section 13(3)(a) thereof. Thus, calling upon the respondent-landlord to disclose his such other properties in a petition under Section 13(B) of 1949 Act would tantamount to reading the requirement of Section 13(3)(a) into Section 13(B) of 1949 Act which was never intended by the legislature. Accordingly, the contention raised on behalf of the petitioners-tenants regarding non-disclosure of other properties owned by respondent-landlord in his eviction petition preferred under Section 13(B) to be treated as fatal is rejected being devoid of merits. As such, the observations made by this Court in its decision passed in case of **“Nelson Christopher”** (supra) are of no help to the petitioner especially in view of the exposition of law made by this Court in case of

“M/s Hot Millions versus Harish Batra” reported as **“2018(4) PLR 621”**. Relevant paragraph 17 thereof is extracted hereunder:-

“17. The afore-noticed averments clearly demonstrate that the ingredients of Section 13B had been specifically pleaded. Supporting documents reflecting his NRI status so as to fall within the definition of NRI under Section 2(dd) had been adduced on record and appended along with the eviction petition. Even otherwise the plea of non-disclosure of other properties owned by the landlord and which as per Senior counsel would entail dismissal of the eviction application is without merit. The requirement of mandatory disclosure of other properties has been incorporated only under Section 13(3) of the Rent Act which deals with the personal requirement of a resident Indian. Such requirement is not there while seeking eviction under Section 13B which is a special right conferred upon an NRI. There is no requirement for the landlord for filing an eviction application under Section 13B of the Rent Act to disclose that he is in possession of other properties within the Municipal city limits where the demised premises is situated. Had that been the intention of the legislature, it would have been so mentioned in Section 13B as well, as has been mentioned in Section 13(3) of the Rent Act. The only requirement is that the landlord should be a NRI, owner of the demised premises for the last 05 years and averment in the petition that he requires the premises for his own use and occupation.”

9. Further, the argument raised on behalf of the petitioners-tenants to the effect that the co-owners of respondent-landlord in relation to a separate joint property having sought eviction of their tenants thereunder while invoking Section 13(B) of the 1949 Act; the present petition under the same provision, at the instance of respondent-landlord qua the demised property was not maintainable; also needs to be rejected. As pointed out by learned Senior counsel for

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the respondent-landlord, though an eviction petition invoking Section 13(B) of 1949 Act was filed by the other co-owners of respondent-landlord qua the joint property bearing No. WX-70 against their tenants, however, the same came to be dismissed by the Rent Controller at Jalandhar vide decision dated 16.01.2008. Though, a settlement later came to be arrived at between the parties before this Court in CR-5658-2008 which was disposed of on 08.01.2010 and as a result thereof, the tenants therein undertook to vacate the said premises within one year of the passing of the order. For reference, order dated 08.01.2010 passed in CR-5687-2008 is reproduced hereunder:-

“Learned counsel appearing on behalf of the respondents-University (respondents no.1 and 2) undertaken that respondents shall vacate the premises under reference within one year from today. He further makes it clear that he does not offer any resistance to this petition on merits thereof. The undertaking is accepted by the learned Senior Counsel appearing on behalf of the petitioners.

It would be appropriate to notice here that the learned Rent Controller upheld the applicability of provisions of Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 to the petitioners but declined ejectment of the respondents on a finding that the petitioners herein had not been able to prove their bonafide requirement of the premises for their own use and occupation. What further weighed with the learned Trial Judge, in the context, was that grant of an ejectment order "will certainly disturb the studies of the students". It further observed that "the balance is tilted towards the students and ultimately the respondents" in view of the comparative hardship. It is apparent therefrom that hardship to be caused to the students community weighed with the learned Trial Judge in recording the finding against the petitioners. However, in view of the undertaking made by the learned counsel for the respondents, (under instructions of the latter), the petition shall stand allowed. The

respondents shall, as undertaken by the learned Counsel, vacate the premises under reference within one year from today.”

Perusal of the above order shows that the respondent-tenant in the aforementioned proceedings was nowhere directed by the Court to vacate the tenanted premises on account of bona fide need of the landlord therein, who happened to be co-sharer of the present respondent-landlord. In fact, the revision petition was allowed merely on the statement made by the tenant therein, to the effect that it would vacate the premises within one year of the passing of the order dated 08.01.2010 and as such the present respondent-landlord could not be said to have derived the actual benefit of Section 13(B) of 1949 Act so as to create any kind of bar for him to seek the benefit of similar provision with respect to the demised premises. Accordingly, in view of the fact that benefit by the other co-owners of respondent-landlord for property No. WX-70 Basti Nav Jalandhar was never availed in terms of Section 13(B) of 1949 Act, as such, decision in case of **“Harbhajan Singh”** (supra) does not help the cause of the petitioner.

10. With regard to the contention raised on behalf of the petitioners-tenants that since the respondent-landlord had sought benefit under Section 13(B) of 1949 Act regarding four shops having filed four separate eviction petitions against the respective tenants and as such, he was not entitled for the benefit under the same provision qua the demised house, is also meritless. A perusal of Section 13(B) of 1949 Act clearly shows that the same confers a special right upon the NRI-owner to avail the benefit for immediate possession of the

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“building” once in a lifetime. Further the term “building” has been defined under Section 2(a) of the 1949 Act which reads as under:-

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

A conjoint reading of Section 13(B) and Section 2(a) of 1949 Act makes it abundantly clear that the term “building” has to be treated as one complete unit; may be consisting of different/separate portions of it. Accordingly, the respondent-landlord having exercised his rights being NRI owner/co-owner as regards the property/building in question i.e. Kothi No.580, Model Town, Jalandhar was well within his rights to seek eviction against all his tenants over the different & separate portions forming part of Kothi No.580, Model Town, Jalandhar. Reference in this regard can be made to the law laid down by this Court in; **“Raghbir Singh versus Surjit Kaur 2019(2) Rent Law Reporter- page 156”**, **“Krishan Lal Dua versus Shander Singh 2020(2) RCR(Rent) page 177”**, and **“Ved Prakash versus Bhupinder Singh Bansal 2024(2) RCR (Rent) page 196”**. Para 9 from the case of **Krishan Lal Dua** (Supra) is reproduced here for reference.

“9. Now let us examine the next argument of learned counsel for the petitioner. It would be noted here that the word "building" has been defined in Section 2(a) of the Act. It is apparent from reading thereof that the building means any building or a part of building. Hence, the definition of "building" includes the entire building as also a part of a building. In the present case, the learned Rent Controller has found that all the premises in possession of the various tenants are part of the

same building and, therefore, covered by the definition of a building. Hence, the landowner is entitled to maintain the various petitions filed against various tenants of the same building.”

11. It may also be noticed here that since separate portions forming part of Kothi No.580, Model Town, Jalandhar were admittedly under possession of separate tenants under separate tenancies as such, separate eviction petitions were even otherwise required to be filed against those tenants over separate portions. In the humble opinion of this Court, the contention raised at the instance of petitioners-tenants that in the given circumstance all the eviction petitions were required to be filed on the same day also needs to be rejected as in a case of different tenancies over separate portions of one building; for practical and procedural reasons, the filing of separate petitions against different tenants over different portions was bound to span over certain reasonable period of time. Moreover, it is not disputed that in the present case, five separate eviction petitions for separate portions of the same building in question were simultaneously filed at the instance of respondent–landlord within the time span of few days only and as such the decision in case of “**Balvir Chand**” (supra) was not to apply to the case in hand.

12. Besides it, the status of respondent–landlord as that of an NRI for the purposes of enabling him to invoke his special right under Section 13(B) of 1949 Act, on account of personal need for making the future generations aware of the Indian culture and social norms, besides he being a co-owner in the building in question has not been agitated/rebutted at all during the hearing. Accordingly, in view of the

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detailed discussion made herein-above, finding no illegality or perversity with the reasoning, recorded by the learned Rent Controller, the present petition being devoid of merits is thus, dismissed thereby upholding the rejection of application for leave to contest made on behalf of petitioners—tenants, resulting into eviction of the petitioners-tenants in terms of Section 13-B of 1949 Act.

12. Pending applications, if any stand disposed off.

01.05.2025

Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>