**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****267****CR-3658-2023 (O&M)****Date of decision: 11.12.2025****Anoop Kumar @ Anup Kumar and another****...Petitioner(s)****Vs.****Gautam Khanna****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Prateek Sodhi, Advocate
for the petitioners.

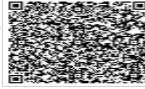
Mr. Anupam Bhardwaj, Advocate
for the respondent.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of Constitution of India has been filed by the tenants seeking setting aside of the order dated 24.05.2023 (Annexure P-4) passed by the learned Rent Controller, Amritsar; whereby application filed by the petitioners under Order 7 Rule 11 read with Section 151 CPC for rejection of the Rent Petition, has been dismissed.

2. It is *inter alia* submitted by learned counsel for the petitioners that the respondent/landlord had filed Rent Petition seeking eviction of the petitioners primarily on the ground of bonafide requirement. It is submitted that respondent is owner of the demised premises to the extent of 25% and rest of the suit property is owned by his parents.

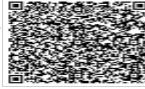
Learned counsel refers to the averments made in the Eviction Petition



(Annexure P-1) to submit that 25% of the demised premises was acquired by the respondent by way of registered Will dated 09.06.2021 executed by his grandmother Smt. Sushma Rani, who had expired on 28.07.2021. Learned counsel submits that the said facts are clearly enunciated in para 12 of the Eviction Petition (Annexure P-1) wherein, the respondent has categorically averred as follows:-

“12 That as such, by virtue of aforesaid registered will dated 09/06/2021, the present applicant has inherited 1/4th share of his grandmother Smt. Sushma Rani in the above referred property of which the demised shops is a part and has become landlord qua the respondents by operation of law and as such, there exists relationship of landlord and tenant between the parties.”

3. It is submitted that therefore, there is no ambiguity with regard to the fact that the respondent acquired 1/4th of the demised premises only on 09.06.2021. Ld. Counsel contends that therefore the present Eviction Petition filed by the respondent was not maintainable in terms of proviso to Section 20 (2) (q) of the Punjab Rent Act, 1995 (hereinafter referred to as the ‘Act’); wherein it is categorically provided that no application for recovery of possession of the premises shall lie under the said clause, unless a period of three years has elapsed from the date of transfer. Ld. Council submits that in the present case, the respondent had preferred instant Eviction Petition on dated 31.08.2021, which is within less than 3 months from the date of 9.6.2021, when the demise premises were acquired by the respondent by way of the Will



dated 9.6.2021. It is contended that therefore, the respondent/landlord did not fulfill the ingredients of the Section 20 of the Act of 1995.

4. It is contended that even as per the averments of the respondent, respondent had acquired title of the demised premises only on 28.07.2021 i.e. the date on which his predecessor-in-interest i.e. his grandmother has died. However, even if date of acquisition of the demised premises by the landlord is taken to be 28.07.2021, requirement of Section 20 of the Act is still not fulfilled. However, the learned Rent Controller has failed to appreciate this aspect of the matter and has dismissed the application filed by the petitioners. In support, learned counsel relies upon judgment of Hon'ble Supreme Court passed in **Rajender Bansal v. Bhuru (D), (SC) : Law Finder Doc Id # 796764**.

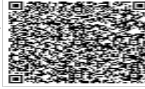
5. It is accordingly prayed that the Revision Petition be allowed; and the impugned order dated 24.05.2023 (Annexure P-4) be set aside.

6. *Per contra*, Id. counsel for the respondent opposes submissions of the petitioners and submits that impugned order suffers from no error. He accordingly prays for dismissal of the Revision Petition.

7. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced by the learned counsel for the petitioner.

8. Section 20 of the Punjab Rent Act, 1995 reads as under: -

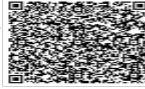
"Section-20 Protection of Tenants against eviction:-
(q) that the premises let for residential or non-residential purpose are required, whether in the same or after re-construction or re-building, by the landlord for occupation for



residential or non-residential purpose for himself or for any member of his family if he is the owner thereof, or for any person for who benefit the premises are held and that the landlord or such person has no other reasonable suitable accommodation;

Provided that where the landlord has acquired the premises by transfer no application for the recovery of possession of such premises shall lie under this clause unless a period of three years elapsed from the date of the acquisition.”

9. It has been argued on behalf of the petitioners that as the demised premises have been ‘acquired’ by the respondent only upon the death of his grandmother on 28.7.2021, or from the date of Will dated 9.6.2021, therefore, buffer time of 3 years was required to be elapsed before Eviction Petition was maintainable. The said argument of the petitioners is inherently flawed as the above provision stipulates that ‘*where the landlord has acquired the premises by transfer*’, ejectment application shall not be maintainable before elapse of three years. In the present case, respondent has neither ‘acquired’ the demised premises, nor has the same been ‘transferred’ to him. Rather, the respondent has inherited the demised premises by way of “testamentary succession”. As per Section 5 of the Transfer of Property Act, ‘transfer’ is envisaged only between two living persons. As the demised premises has devolved upon the respondent by way of registered Will, therefore, question of respondent acquiring the property by transfer does not arise. It is then sought to be argued by learned counsel for the petitioner that



respondent has 'acquired' title to the property through the Will therefore, he falls under the definition of acquisition as the provision makes no distinction between manners of acquisition. The said semantics are also erroneous as the demised premises have not even been 'acquired' by the respondent; instead the respondent has "succeeded" to the demised premises by way of testamentary 'succession'. It is my view that there is a distinction between the 2 terms as an 'acquisition' would imply that a positive act has been done by the respondent in acquiring of the demised premises; whereas inheriting the property by succession would not require any such positive act on part of the respondent. Thus, the said two methods of devolution cannot be equated. Furthermore, the aforesaid judgment relied upon by learned counsel for the petitioner in case of **Rajender Bansal supra** is distinguishable on facts and law and petitioner cannot derive any benefit from the said judgment.

10. The relevant reasoning of the Rent Controller is as follows:-

"From the plain reading of said proviso to Section-20 of the Act, it is clear that application for the recovery of possession of premises shall lie under this clause after the period of three years elapsed from the date of acquisition. It is the claim of the respondents that three years of acquisition of rights in the property by the applicant/landlord have not been elapsed from the death of her grandmother, who had allegedly executed will in favour of the applicant/petitioner and therefore, the petition is not maintainable before the expiry of three years. However, this court is not inclined to accept



the said contention of the respondents due to the reason that demised property was acquired through testamentary succession by way of will from her grandmother and said testamentary succession does not fall under the category of transfer or acquisition, as alleged by the respondents. Had it been the intent of legislature to include the factum of testamentary succession to the preview of proviso to clause 'q' of Section-20 of Punjab Rent Act, they would have been definitely mentioned the word 'inheritance' alongwith the word 'acquisition'. Therefore, it can not be held that the petition of the petitioner is premature or not maintainable and hence, the said objection is also not tenable. Accordingly, application for dismissal of petition filed by the respondents stands dismissed being devoid of merits."

11. I am in agreement with the above said view taken by the learned Rent Controller. In view of the above, I find no ground is made out to interfere in the impugned order dated 24.05.2023 (Annexure P-4) passed by learned Rent Controller, Amritsar. The present Civil Revision Petition is accordingly **dismissed**.

12. Pending application(s), if any, also stand(s) disposed of.

11.12.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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