



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.6010 of 2023 (O&M)

Date of Order:29.04.2025

Lal Chand Arora

.Petitioner

Versus

Surender Kaur

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aalok Jagga, Advocate
Mr. Karan Inder Singh, Advocate
Mr. Sahil Lohan, Advocate
Ms. Vibha Aggarwal, Advocate
for the petitioner.

Mr. Sharan Sethi, Advocate
for the respondent.

ANIL KSHETARPAL, JUDGE (Oral)

I. BRIEF FACTS:-

1. The petitioner herein is a tenant, who has been ordered to be evicted by the Rent Controller while refusing to grant leave to contest.
2. The respondent is co-owner of SCO Nos. 10, 11 and 12, Sector 17A, Chandigarh. As per Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as '1949 Act'), which has been extended to Chandigarh, the non-resident landowner is entitled to take immediate possession of one building each from the category of residential, scheduled building and non-residential buildings. This opportunity is given once in a life time of the owner. There are certain qualifications for filing the petitions. Section 13-B of the 1949 Act reads as under:-

"13-B. Right to recover immediate possession of residential building or scheduled building and or non-

***residential 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 sub-section 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.”

3. The petitioner filed an application for leave to contest as provided under Section 18-A(4) of the 1949 Act, which has been dismissed by the Rent Controller.

4. Yesterday, the detailed arguments of the learned counsel



representing the parties were heard. However, on the request of the learned counsel representing the respondent, the hearing was deferred to today.

II. **ARGUMENTS ADDRESSED:-**

5, The learned counsel representing the petitioner has assailed the correctness of the impugned order on the following two grounds:-

- (i) The respondent has already taken possession of $\frac{1}{2}$ portion of the ground from Haryana Dairy Development Cooperative Federation Limited by filing a petition under Section 13-B of the 1949 Act. It is contended that a part of the building is a building as defined in Section 2(a) of the 1949 Act. He, hence submits that the second petition is not maintainable even if both the petitions were filed simultaneously.
- (ii) The respondent is also co-owner in SCO Nos.1, 2 and 3, Sector 17-D, Chandigarh and her co-owners, namely, her husband and son filed similar petition.

6. Per contra, the learned counsel representing the respondent, submits that the landlord/landlady/landowner is entitled to simultaneously file multiple petitions securing eviction of various parts of a building which means parts within the complete building. He submits that in this case, the petitions against the petitioner herein and Haryana Dairy Development Cooperative Federation Limited were filed simultaneously on 15.06.2012. He further submits that the respondent is not co-owner in SCO No.1,2 and 3, Sector 17-D, Chandigarh. He submits that while filing reply to the un-amended application for leave to contest, the respondent categorically



denied that she is co-owner in SCO Nos.1,2 and 3, Sector 17-D, Chandigarh. He submits that inadvertent printing error in the amended reply would not be sufficient to deny relief to the respondent. He also produced copy of transfer of ownership of SCO Nos.1, 2 and 3, Sector 17-D, Chandigarh, issued by the Estate Officer, UT, Chandigarh, dated 26.08.2013, reflecting that there are two co-owners in the property, namely, Gurmail Singh and Rana Singh, husband and son of the respondent.

III. **ANALYSIS AND DISCUSSION:-**

7. This court has considered the submissions of the learned counsel representing the parties.

8. In fact, Section 13-B of the 1949 Act, was interpreted succinctly in **Balvir Chand vs. Jatinder Singh, 2020 AIR CC 2652**. After interpreting the provision, it was observed that the owner is entitled to exercise right under Section 13-B of the 1949 Act only once during his life time. However, as is evident from a reading of Section 13-B, the owner is entitled to file multiple petitions in order to get possession of one building each from the residential, commercial and schedule buildings.

9. Section 2(a) of the 1949 Act, reads as under:-

Section 2(a) of the East Punjab Urban Rent Restriction Act, 1949, defines "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."

10. It is evident that the word 'building' includes the complete



building or a part of a building. If a particular building has been let out in parts to various tenants, the owner is entitled to get possession of the entire building by simultaneously filing petitions under Section 13-B of the 1949 Act against all the tenants. The delivery of possession of one portion of the property due to the expeditious disposal of that particular eviction petition filed against a tenant of one portion would not result in dismissal of all the remaining petitions with respect to the same building. Where the statutory requirement regarding the entire building is duly complied with, and multiple eviction petitions are instituted simultaneously in respect of different tenanted portions, such proceedings would not fall within the mischief contemplated under Section 13-B of the 1949 Act. The provisions of the act shall be interpreted by adopting a pragmatic approach. The Act cannot be interpreted in order to defeat the purposes for which the amendment was made and for which the provision was made. It is evident that Section 13-B enables the owner to recover immediate possession of one building from each of the above-mentioned three categories. Section 2(a) of the 1949 Act defines the term 'building' in a comprehensive manner and includes complete building with its parts.

11. With regard to the second submission, it may be noticed that the allotment letter has been produced which proves that the respondent-Surender Kaur is not co-owner in SCO No.1,2 and 3, Sector 17-D, Chandigarh. While filing the reply to the application for leave to contest, she categorically denied that she is not a co-owner in SCO No.1,2 and 3, Sector 17-D, Chandigarh. Hence, the reply filed to the amended application cannot be read in isolation without referring to her original reply.



IV. **DECISION:-**

12. Keeping in view the aforesaid facts and discussion, no ground to interfere in the impugned order is made out.
13. Dismissed.
14. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

April 29, 2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No