



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

117)

CR-1876-2016(O&M)

Date of Decision: 09.03.2026

Gaurav

...Petitioner

V/s

Kashmir Kaur

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Damanpreet Kaur, Advocate for
Mr. Sarju Puri, Senior Advocate, for the petitioner.

Mr. Parvinder Singh, Advocate, for the respondent.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition assails the judgment/order dated 10.12.2025 passed by the Appellate Authority, SBS Nagar (under the East Punjab Urban Rent Restrictions Act, 1949) (hereinafter referred to as “the Rent Act”), vide which the appeal instituted by the respondent/landlord (Kashmir Kaur) against the order dated 18.11.2014 passed by the Court of Rent Controller, SBS Nagar dismissing the eviction petition instituted by the respondent-landlord under Section 13 of the Rent Act, was allowed, thereby allowing the eviction petition.

2. The respondent/landlord (Kashmir Kaur) instituted an eviction petition under Section 13 of the Rent Act seeking eviction of the petitioner/tenant (Gaurav) from a shop (fully described in the eviction petition) situated in the Abadi of Geeta Bhawan Road, Nawanshahr (now SBS Nagar) (hereinafter referred to as “the demised shop”).

3. It was averred that the petitioner/tenant had been inducted as such in the demised shop as a tenant on a monthly rent of Rs.4,000/- in January 2002. Rent note dated 28.01.2002 was executed. The rent was to be paid

with an increase of 3% per annum. The duration of the rent note was for a period of a day less than one year. It was alleged that however, the petitioner/tenant continued to occupy the demised shop and, therefore, became a statutory tenant

Eviction was sought on the following three grounds:-

- i) Arrears of rent with effect from 01.04.2006 onwards along with house tax;
- ii) The petitioner/tenant having ceased to occupy the demised shop for a period of more than six months without any reasonable cause and excuse; and
- iii) The value and utility of the demised shop having been impaired on account of unauthorized changes, additions and alterations and nuisance to the other occupiers of the building

4. The eviction petition was opposed by the petitioner/tenant. In the written statement, certain preliminary objections as regards maintainability, the site plan being wrong as per the existing position at the spot and the eviction petition being *mala fide*, having been filed with a view to pressurize the petitioner/tenant to either increase the rate of rent or to vacate the demised shop, were raised.

On merits, the relationship of landlord and tenant and execution of the rent note was admitted. It was denied that parties had agreed for a 3% annual increase of rent. The grounds of eviction were denied. As regards the ground of the petitioner/tenant having ceased to occupy the premises, it was averred that the same was open since the inception of tenancy and the petitioner/tenant and his father Bhushan Rai, who were joint in mess, worship, residence and income, were jointly running the shop and it was the only source of income of the joint family. It was averred that the rent note had

been executed in favour of the petitioner/tenant alone but the demised shop was being run jointly by father and son and since the beginning, the demised shop had never been closed even for a day. All other averments were also denied.

5. From the pleadings of the parties, the following issues were framed:-

- “1. Whether the rent tendered by the respondent is valid tender?OPR***
- 2. Whether the respondent has ceased to occupy the demised premises for a period of more than four months?OPP***
- 3. Whether the respondent is guilty of making unauthorized changes, additions and alterations in the demised premises without the consent of the petitioner?OPP***
- 4. Whether the respondent is guilty of committing act of omission and commission and waste that he is a nuisance to the petitioner?OPP***
- 5. Whether the petition is not maintainable in the present form?OPR***
- 6. Relief.”***

6. Parties led their respective evidence.

7. The Court of the Rent Controller dismissed the eviction petition. An appeal was preferred by the respondent/landlord, which was allowed and eviction of the petitioner/tenant was ordered. Assailing the said order of the Appellate Authority, the instant revision petition has been preferred.

8. I have heard learned counsel for the parties, who are *ad idem* that the only ground on which eviction has been ordered is the ground of the petitioner/tenant having ceased to occupy the demised shop as no other ground survived or was agitated.

9. Learned counsel for the petitioner has strenuously urged that from the evidence led on the record of the case, it stands proved that the demised shop had never been closed even for a day and, therefore, it could not have been held that the petitioner/tenant had ceased to occupy the same. It has also been argued that the petitioner/tenant (Gaurav) had been going to Malaysia for his work and had been subsequently coming back after spending

some time there and, therefore, it cannot, by any stretch of imagination be said that he had ceased to occupy the demised shop.

10. It has further been submitted that even otherwise, it is not a requirement of law that a tenant should be in physical possession of the demised premises and that if any other person or family member is working on his behalf in the said tenanted premises, it cannot be said that the tenant had ceased to occupy the same. Learned counsel has referred to the entire oral and documentary evidence led on the record of the case and has submitted that the impugned judgment/order is not sustainable. In support of his contention learned counsel has relied upon a judgment of a Division Bench in the case of ***Buta Ram Vs. Balwant Singh*** 1989 AIR (P&H) 70.

It has been submitted that in view of the ratio of law laid down in the said judgment, the impugned order of the Appellate Authority is not sustainable.

11. *Per contra*, learned counsel for the respondent/landlord has submitted that there is no illegality in the decision of the Appellate Authority, warranting interference in revisional jurisdiction. It has been argued that though the judgment in the case of Buta Ram (supra) and ***Dr. Bhagat Singh Vs. Sarbjeet Singh and another***, 1987 (2) PLR 519, it was held by a Division Bench of this Court that in order to be in occupation of the demised premises, physical possession of the demises premises by the tenant is not an essential requirement but it was also held that to prove that business was being carried on, evidence was required to be produced. Learned counsel has submitted that in both cases, eviction of the tenant was ordered after considering the evidence led in those particular cases.

12. Coming to the evidence in the present case, learned counsel has referred to the statement of the father of the petitioner/tenant namely Bhushan Rai, who stepped into the witness box RW-1. Learned counsel has further

submitted that the petitioner/tenant has shifted for good to Malaysia which would also be evident from the fact that even the written statement was not filed by him and it was filed through his power of attorney, who was none else than his father. It has also been argued that the petitioner/tenant himself did not step into the witness box and again it was his father who appeared in the witness box. Learned counsel has submitted that no evidence was produced by the father of the petitioner/tenant to show that the same business was being carried on in the demised shop as was being carried on by the petitioner. Learned counsel has submitted that no one can be permitted to misuse and abuse the provisions of law in this fashion and then to contend that the demised shop that the petitioner/tenant had not ceased to occupy the demised shop.

13. In support of his contentions, learned counsel has placed reliance upon the cases in *Shiromani Gurudwara Parbandhak Committee vs. Balbir Singh, 2010 (9) RCR (Civil) 951, Varun Gupta and others vs. Shree Sanatam Dharam Sabha, 2006 (2) RCR (Rent) 363, M/s Unisystem Pvt. Ltd. vs. Chand Rani (deceased) through LRs, 2018 (2) RentLR 489, Khemchand Kalidas Mehta vs. Kothari Gubharuchand Motilal, 1997 (1) RCR (Rent) 310, Mukesh Puri vs. Gurmit Singh, 2011 SCC Online P&H 12436, Sher Chand vs. Suraj Parkash and others, 1992(2) RCR (Rent) 679 and Mohinder Kumar vs. M/s Allied Properties, 2017(1) RCR (Civil) 166.*

14. I have considered the submissions made by learned counsel for the parties.

15. Paragraph 3(ii) of the eviction petition states as under:-

“that the respondent has ceased to occupy the demised shop for a period of more than four months, without any reasonable cause and excuse, i.e. for the last more than 6 months, without the consent of the petitioner and, thus, on this ground as well, the respondent is liable to eviction.”

The corresponding reply in the written statement submitted by the father of the petitioner/tenant states as under:-

“Para No.3(ii) of the petition is wrong and hence denied. The shop in question is open since the inception of tenancy and till date same is open & the respondent and his father Bhushan Rai who are joint in mess, worship, residence and income are jointly running the shop and this is the only source of income for the joint family. The rent note was executed by respondent alone in favour of petitioner but however the shop in question is being run jointly by father & son. Since beginning the shop has never been closed even for a day what to talk of a period of 4-6 months. The allegations have been leveled without the purpose of pressurizing the respondent either to increase the rate of rent or vacate the shop so that the petitioner could sell it at premium rates. The intention of the petitioner is not bona fide rather it is mala fide.”

16. Notably, the written statement does not, at any place, state that the father of the petitioner/tenant had some power of attorney of the petitioner/tenant. Be that as it may, even in the evidence, the petitioner did not step into the witness box and it was only his father Bhushan Rai, who appeared as RW1.

17. Before we discuss the evidence of the father of the petitioner/tenant, it would be apposite to refer to the evidence led by the respondent/landlord. In the cross-examination, PW1 (Kashmir Kaur) admitted that the adjoining shops open at about 9:30 a.m. and shut at about 7:30 p.m. She admitted that an electric meter had been installed in the demised shop and the said meter had never been disconnected. She further admitted that the demised shop was open on weekdays and closed on Sunday. The other witness namely PW2 (Mahinder Singh) did not say anything about the petitioner/tenant having ceased to occupy the demised shop.

18. On behalf of the petitioner/tenant, his father Bhushan Rai stepped into the witness box as RW1 and stated that he was the power of attorney holder of his son and was fully conversant with the facts of the case. He stated that the demised shop was open since the inception of tenancy.

19. He further stated that he and his son (Gaurav) were joint in mess, worship, residence and income and were jointly running the demised shop and that the shop was the only source of income for the joint family. He stated that the rent note was executed by the respondent/landlord alone in favour of his son but the demised shop was being run jointly by him and his son. He stated that the demised shop had not been closed even for a day. He further stated that the ground of the petitioner/tenant having ceased to occupy the demised shop had been raised to pressurize the petitioner/tenant to either increase the rate of rent or to vacate the demised shop.

20. However, he spilled the beans in the cross-examination. He stated that his son (Gaurav) had gone to Malaysia but he could not tell as to when he had first left for Malaysia and when he had come back for the first time. He then stated that his son had been coming and going to Malaysia 5-7 times and that he used to come to India before *Sangrandh* of every month and used to leave after some time. He stated that his son had no business in Malaysia, but used to go there as a tourist. He then admitted that he had filed a suit against the respondent/landlord in respect of the demised shop which had been decided by the Court of Additional Civil Judge (Sr. Divn.) vide judgment and decree dated 03.10.2011.

21. Ex.P-4 is the copy of judgment and decree dated 03.10.2011 passed by the Court of Additional Civil Judge (Sr. Divn.), SBS Nagar, in Civil Suit No.375 titled as ***Bhushan Rai vs. Kashmir Kaur***. This was a suit for injunction filed by Sh. Bhushan Rai, father of the petitioner/tenant against the respondent/landlord for permanent injunction restraining her from taking forcible possession of the demised shop. In the said case, it had duly been pleaded that the plaintiff constituted a joint Hindu family with his son and was the *karta* of the same. He stated that his son Gaurav was away to a foreign country as a visitor and that he had been inducted as a tenant in the demised

shop in 2002. This suit was dismissed by holding that no evidence had been led by the plaintiff to prove his case. Notably, the said suit was filed in 2006, meaning thereby that even in 2006, the petitioner/tenant was not in India. The eviction petition was filed on 06.06.2007. Today, we are in 2026.

22. For the satisfaction of the Court, after hearing arguments at some length on 14.07.2025, a direction was issued to learned counsel for the petitioner/tenant to produce a copy of the passport of the petitioner-Gaurav. (in original or a copy thereof);

“Arguments have been heard at some length.

Learned counsel for the petitioner is directed to produce the passport of the appellant-Gaurav (original or copy) for perusal of the Court.

Adjourned to 18.07.2025.

To be shown in the urgent list.”

23. Thereafter, despite many opportunities having been granted, the passport was not produced. This would definitely show one thing that the petitioner/tenant has permanently shifted to Malaysia, which was a specific stand taken by learned counsel for the respondent/landlord during the course of arguments.

24. Now, we come to the issue in hand, i.e. as to whether the petitioner/tenant has ceased to occupy the demised shop. No doubt, to prove that a tenant had ceased to occupy a demised shop, the settled law is that the same would have to be proved by leading cogent evidence. For the said purpose, electricity bills are normally produced to show that there was no consumption of electricity and further, other evidence in the form of evidence of neighbours etc. is also normally produced. In the present case, there is no such evidence because it is the case of the petitioner/tenant that his father is still running the same business and that they have a joint Hindu family. The question which then arises before this Court is as to whether by permitting

someone else to continue working in the shop, it can be said that a tenant has

ceased to occupy the demised premises or whether he would be well within his rights to do so.

25. A division bench of this court held in the cases of ***Buta Ram*** (supra) and **Dr. Bhagat Singh** (supra), that physical possession of the premises by the tenant was not an essential requirement to be in occupation of the same and that a tenant would not cease to occupy a premises if he could show that the same were occupied by others for and on his behalf. However, in the instant cases, after finding that no such evidence had been led, eviction of the tenant was ordered.

26. Be that as it may, the ratio of law would still be applicable and we proceed to examine as to whether any evidence was led to prove that the family was a joint Hindu family and whether the same business was being run in the demised shop by the father of petitioner/tenant as was being run by the petitioner/tenant.

27. As regards the joint Hindu family property, no evidence worth its name was produced except for the bald and oral statement of the father of the petitioner/tenant. In the judgment and decree dated 03.10.2011, also the father of the petitioner/tenant had failed to prove the same. Not only this, , absolutely no evidence was produced to even *prima facie* prove that the business being carried on in the demised shop was that of the petitioner/tenant or that the same was being carried on by his father or on his behalf. Under these circumstances, a tenant cannot be permitted to defeat the rights of a landlord in this fashion by leaving for abroad and handing over the possession of the demised shop to his relative and then the relative not producing any evidence to prove that he was running the business for or on behalf of the tenant. A number of coordinate Benches have taken a view that under such circumstances, a tenant would be held to have ceased to occupy the premises.

In **Sher Chand's** case (supra), ejectment of the tenant had been sought on the

ground of his having ceased to occupy the demised premises. It was found by the rent controller that the tenant had left for Dubai in June 1976 after which he had ceased to occupy the demised premises. It was also found that the father of the tenant continued to do business in the premises but it was held that the same was of no consequence. The rent controller, therefore, ordered eviction. An appeal was preferred by the tenant in which the decision of the Rent Controller was also upheld. The argument raised before the coordinate Bench was that there was no convincing evidence on record to prove that the father was not carrying on the business in the demised premises. The coordinate Bench then held as under and rejected the revision petition of the tenant:-

“5. It is true that mere absence of the tenant from the premises is not material for the purpose of clause (v) of sub-section (2) of Section 13 of the East Punjab Urban Rent Restriction Act (for short the Act) but in case the tenant has transferred the possession and user of the premises in favour of some body else, that may be a ground for ejectment a tenant under clause (ii)(2) of sub-section (2) of Section 13 of the Act i.e. sub-letting. However, in the present case, I find that the Appellate Authority, on the appreciation of the entire evidence, came to a firm finding of fact that the tenant has failed to prove on the record that father of the tenant is carrying on the business in absence of the tenant. Sadan Ram father of the tenant appeared in the witness box to support the plea of the tenant. He admitted in his statement that the books of accounts are being maintained by the firm but he did not produce the same. In case, he was carrying on the business, there was no reason as to why the account books or other documentary evidence was not produced to prove this fact.

6. In absence of any proof of the occupation of the premises by the father of the tenant, the Appellate Authority rightly passed an order of ejectment against the tenant. I find no ground to differ with the reasoning of the Appellate Authority. Consequently, the civil revision is dismissed with no order as to costs. However, tenant is allowed three months' time to vacate the premises provided he deposits the entire arrears of rent including that of three months with the Rent Controller within a period of one month from today.”

28. A similar view was taken by a coordinate Bench in the case of **Mohinder Kumar** (supra). In the case of **Shiromani Gurudwara Parbandhak Committee** (supra), a coordinate Bench held that when a landlord states on oath that a tenant had ceased to occupy the tenanted premises, the burden on the landlord stands discharged and then the onus to prove that the tenant had not ceased to occupy demised premises and was still doing business therein, would shift on the tenant.

29. A similar view was taken in the case of **Varun Gupta** (supra). If we examine the matter from all angles, as would be evident from the discussion in the preceding paragraph, the only conclusion which this court arrives at is that the petitioner/tenant had ceased to occupy the demised shop.

30. That being so, the Appellate Authority committed no irregularity or illegality in allowing the appeal and consequently the eviction petition.

31. Under these circumstances, the instant appeal is found to be devoid of merit and is accordingly dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

March 09, 2026
vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No