



CR Nos.6370, 4743 & 5343 of 2012 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

1.

OM PARKASH CHAUDHARY  
Vs  
BALDEV SINGH MANKOO

CR No.4743 of 2012 (O&M)  
.....Petitioner  
....Respondent
2.

OM PARKASH CHAUDHARY  
Vs  
BALDEV SINGH MANKOO

CR No.5343 of 2012 (O&M)  
.....Petitioner  
....Respondent
3.

UTTAM CHAND  
Vs  
BALDEV SINGH MANKOO

CR No.6370 of 2012 (O&M)  
.....Petitioner  
....Respondent

|   |                                                                                                      |                |
|---|------------------------------------------------------------------------------------------------------|----------------|
| 1 | The date when the judgment was reserved                                                              | 21.11.2025     |
| 2 | The date when the judgment is pronounced                                                             | 15.01.2026     |
| 3 | The date when the judgment is uploaded on the website                                                | 16.01.2026     |
| 4 | Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced | Full           |
| 5 | The delay, if any, of the pronouncement of full judgment, and reasons thereof.                       | Not applicable |

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Vaibhav Sehgal, Advocate  
for the petitioner(s) in CR Nos.4343 and 5343 of 2012 &  
Mr. Anil Bansal, Advocate  
for the petitioner in CR No.6370 of 2012.

Mr. Prateek Sodhi, Advocate  
Mr. Anubhav Goel, Advocate  
Mr. Aditya Jain, Advocate and  
Mr. Rahul Vohra, Advocate for the respondent(s).

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*HARKESH MANUJA, J.*

[1]. Vide this common order, the aforementioned revision petitions are being decided as the same have arisen out of common order involving identical facts and question of law. For the sake of brevity, facts are being taken from CR No.4743 of 2012.



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[2]. By way of present revision petition, challenge was laid to the order dated 24.04.2012 passed by the learned Rent Controller, Ludhiana whereby an application preferred under Section 18-A(4) of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the 1949 Act'), preferred at the instance of the petitioner-tenant seeking leave to contest the eviction petition filed under Section 13-B of the 1949 Act by the respondent-landlord stood dismissed.

[3]. The dispute in this case pertained to property No.60-R, located in the Industrial Area-B, Ludhiana. The said property was originally owned by the father of respondent-landlord, Sh. Ram Lal Singh. The respondent-landlord, claiming to be an NRI having a Canadian passport, inherited the subject property along with his two sons from his deceased father through a registered Will dated 17.02.1997. He sought to evict the petitioner as well as his other tenants, from the four shops and one hall on the grounds of his *bona fide* need. The respondent-landlord intended to set up his own business of manufacturing auto parts in the premises after relocating to Ludhiana from Canada. As per the pleadings, one shop and a hall were rented out to the petitioner, while two other shops were rented out to another tenant, Vijay Loomba, and the fifth shop was under tenancy with Uttam Chand. Paragraphs No.8 and 9 from the eviction petition filed by the respondent-landlord are relevant to this case and thus are reproduced here under:-

*"8. That the petitioner is also holder of passport bearing No.JE262816. Photocopy of the same attached herewith. The petitioner is Indian by and has settled at abroad in order to earn his livelihood and at present the petitioner has returned to India in 2009 and want to settle permanently in Ludhiana India, because the petitioner has spent his golden period of childhood and academic carrier in Ludhiana (India). The petitioner is also*



*holder of Dual Citizenship and in this regard a certificate bearing No.A 023213 has been issued by the competent authority in favour of the petitioner which is attached herewith. The petitioner is also holder of Driving License issued by the Canadian Government in favour of the petitioner. Photocopy of the same is attached herewith.*

*9. That the respondent is liable to be ejected from shop in dispute which has been shown as read in the site plan attached on the following ground:-*

*i) That the petitioner is NRI and has returned to India in the year 2009. Earlier the petitioner was residing at 17 Crevice Gate, Brampton, Ontario, Canada L-6R 2k 5 and at present the petitioner is residing at 60-R, Industrial Area-B, Ludhiana. The petitioner honestly and bonafidely require the tenancy premises for his own use and occupation which is in possession of the respondent in order to start the business and as such the petitioner is entitled to recover immediate possession of the said shop alongwith other shops which are in possession of other tenants. At present the petitioner is sitting idle and doing nothing. The petitioner has completed his diploma in mechanical engineering from Guru Nanak Engineering College in the Year 1971. The petitioner is having shining and rich experience in the field of manufacturing of Auto Parts and other parts of the vehicles. The petitioner intends to start his own business of manufacturing of Auto Parts in shop in dispute and by vacating the other adjoining shops from other tenants. The petitioner is having manufacturing machine, two drill machines, one punch machine, two laith machines in order to set up his business of manufacturing of auto parts. For this business, the petitioner require shop in question which is in possession of the respondent alongwith other shops/hall to run his business smoothly. The petitioner also intends to install computer for the said purpose. The petitioner, therefore, requires the property in question urgently for his genuine personal bonafide need and use and full time occupation use for running his business. The petitioner requires all the shops/hall in order to set up his business of manufacturing of auto parts. The petitioner has no place for running the business of manufacturing of auto parts. After getting the shop in dispute vacated from*



*the respondent and other shops from the other tenants, the petitioner will reconstruct a big hall in order to set up above said business for which more space/accommodation is required for the above said business. The said hall will be opened by the petitioner by converting the shop in dispute alongwith other adjoining shops/hall which are in possession of other tenants and respondent. The petitioner is also filing ejectment petitions against other tenants also U/ 13-B of the Rent Act for getting the shops vacated, because the purposed hall, require much more accommodation/space, for which all the shops/hall in building will be required for running the above said business. After getting the property in dispute vacated alongwith other shops vacated the petitioner will run the business mentioned above immediately. There is no such business in the vicinity area and in the surrounding area. Being NRI the petitioner has every right to settle at place which the petitioner likes more and due to this reason the petitioner has opted to settle at Ludhiana and to carry on the above said business and has chosen and to carry on to get the eviction of the respondent where he wants to start his business. Apart from that the petitioner has sufficient balance in his possession to start his business. The petitioner is well aware about the provisions of Section 13-B of the Rent Act and petitioner has no intention to sell/relet and dispose off the shop in dispute after getting it vacated from the respondent. The petitioner has also filed similar cases against the other tenants for eviction of other shops.”*

[4]. Upon appearance, the petitioner-tenant preferred an application under Section 18(A)(4) of the 1949 Act, seeking leave to contest the eviction petition filed under Section 13-B thereof. The petitioner pleaded that the site plan attached to the eviction petition was incorrect and the respondent-landlord was neither a Non-Resident Indian (NRI); nor the owner of the demised premises for the past five years, making him ineligible to invoke Section 13-B of the 1949 Act. The petitioner also contended that the respondent-landlord never intended to permanently settle in India and that the eviction petition was filed solely to vacate and subsequently sell the demised shop. Additionally, the petitioner averred that



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since there was a joint tenancy of one shop and a hall against rent of ₹800 per month, two separate eviction petitions were not maintainable as the same amounted to splitting up of tenancy.

[5]. Respondent-landlord opposed the petitioner's application by filing a detailed reply. It was stated that the site plan attached to the eviction petition accurately reflected the actual situation on the spot that besides depicting the shops and hall under tenancy of different tenants, the remaining area was under the ownership of the respondent-landlord. He further claimed that he along with his two sons also inherited the property from his deceased father based on registered Will dated 17.02.1997, thus were the owners of the subject property. The respondent-landlord also asserted that there was no concealment or fraud played upon the petitioner-tenant. He further pleaded that there were two separate tenancies regarding the hall and the shop, which justified the filing of two separate eviction petitions.

[6]. Upon examining the record, the learned Rent Controller vide its order dated 24.04.2012 dismissed the application preferred at the instance of the petitioner-tenant thereby declining the permission sought for leave to contest. Hence the present revision petition(s).

[7]. Impugning the aforementioned order dated 24.04.2012, learned counsel for the petitioner submitted that present is a case of splitting up of the tenancy by the respondent-landlord. Learned counsel pointed out that while one hall and one shop were jointly rented out in the name of petitioner-Om Parkash Chaudhary, however, by splitting up the tenancy into two parts i.e. one pertaining to the shop and the another one pertaining to the hall, two separate eviction petitions were preferred under Section 13-B of the 1949 Act at the instance of the



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respondent-landlord, which was impermissible in law. In support of his submissions, learned counsel relied upon the decisions in *Habibunnisa Begum Vs. G. Doraikannu Chettiar (Dead) by LRs* reported as “2000 AIR (SC) 152”, and *Anand Parkash Mangal vs. The Delhi Cloth and General Mills Co. Ltd.* reported as “2003(1) RentLR 131”. Relevant paragraphs/portions thereof are extracted hereunder:

**Para No.2 of the *Habibunnisa Begum’s case***

2. *The only question that arises in this case is as to whether it was open to the High Court to split the single tenancy by ordering partial ejectment of the tenant from the premises let out to him. In S. Sanyal v. Gian Chand, 1968(1) SCT 536, it was held that where a contract of tenancy was a single indivisible contract and in the absence of any statutory provision to that effect, it is not open to the Court to split the tenancy. Law, therefore, is that where there is a single indivisible contract of tenancy, it cannot be split by a Court unless there is statutory provision to that effect. In the present case it is not disputed that the contract of tenancy is single indivisible contract for Door Nos. 27 and 28. It is also not disputed that there is no provision in the Tamil Nadu Building (Lease and Control) Act empowering the Court to order partial ejectment of a tenant from the premises by splitting the single indivisible tenancy. For these reasons it was not open to the High Court to split the tenancy and ordered for partial ejectment of the tenant from the premises.*

**Relevant portion from para No.5 of the Anand Parkash Mangal’s case**

“xxx xxx xxx. *It is not even disputed before me that two eviction petitions were filed unilaterally splitting the tenancy which apparently was not permissible in law. The predecessor-in-interest of the petitioners had entered into a contract for lease in relation to the premises as a whole. The heirs of the landlord has to abide by the terms and conditions of the lease and cannot be permit to alter or substitute the agreement unilaterally.*”



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[7.1]. Learned counsel further argued that from the conjoint reading of the application for leave to contest, the reply and the cross-examination of the deceased father of respondent/landlord, Ram Lal Singh, in the earlier eviction petition, it was evident that the petitioner was rented out a single composite premises at Rs.950/- per month, not the two separate premises comprising a shop and a hall at Rs. 800/-. Learned counsel contended that the respondent-tenant had made an apparent splitting of tenancy, which was impermissible in law. Consequently, the impugned order was liable to be set aside. He also argued that once a substantial issue regarding the splitting of tenancy was made out from the pleadings, the petitioner should have been afforded an opportunity to present evidence and cross-examine the witnesses of the respondent/landlord, in addition of being allowed to produce the relevant documentary evidence. Learned counsel further referred to the profit and loss account statements for the years 2002-2003, 2003-2004, and 2004-2005 to support his claim. These statements showed that the rent for the one composite tenancy, including the shop and the hall, was Rs.950/- per month, which accounted for Rs.10,200/- reflected in his annual profit and loss account.

[7.2]. Learned counsel also contended that while a specific plea to the aforementioned fact was raised in the application for leave to contest and was even noticed by the learned Rent Controller in the impugned order, it was never addressed or dealt with while rejecting the application. He thus submitted that the right to assail the findings on this issue, if at all which could have been recorded by the learned Rent Controller at the time of passing of the impugned order was taken away. Therefore, he prayed for the matter to be remanded to the learned Rent Controller for its fresh adjudication on the said issue.



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[7.3]. Learned counsel also argued that once the petitioner-tenant raised the factual plea of splitting of tenancy in his application for leave to contest and the respondent-landlord denied and disputed it in his reply, the matter should be tried and tested through a trial rather than being decided prematurely at the stage of adjudication on the application for leave to contest. In support of his submissions, learned counsel cited the decision of the Hon'ble Apex Court in the case of ***Inderjeet Kaur Vs. Nirpal Singh***, reported as ***"(2001) 1 Supreme Court Cases 706"***.

Relevant paragraph No.13 of that decision is extracted below:-

*"xxx xxx. At the stage of granting leave to defend parties rely on affidavits in support of the rival contentions. Assertions and counter assertions made in affidavits may not afford safe and acceptable evidence so as to arrive at an affirmative conclusion one way or the other unless there is a strong and acceptable evidence available to show that the facts disclosed in the application filed by the tenant seeking leave to defend were either frivolous, untenable or most unreasonable. Take a case when a possession is sought on the ground of personal requirement, a landlord has to establish his need and not his mere desire. The ground under clause (e) of the proviso to sub-section (1) of Section 14 enables a landlord to recover possession of the tenanted premises on the ground of his bona fide requirement. This being an enabling provision, essentially the burden is on the landlord to establish his case affirmatively. In short and substance wholly frivolous and totally untenable defence may not entitle a tenant to leave to defend but when a triable issue is raised a duty is placed on the Rent Controller by the statute itself to grant leave. At the stage of granting leave the real test should be whether facts disclosed in the affidavit filed seeking leave to defend prima facie show that the landlord would be disentitled from obtaining an order of eviction and not whether at the end defence may fail. It is well to remember that when a leave to defend is refused, serious consequences of eviction shall follow and the party seeking leave is denied an opportunity to test the truth of the averments made in the eviction petition by cross-examination. It may also be noticed that even in cases where leave is granted provisions are made in this very Chapter for*



*expeditious disposal of eviction petitions. Section 25B(6) states that where leave is granted to a tenant to contest the eviction application, the Controller shall commence the hearing of the application as early as practicable. Section 25B(7) speaks of the procedure to be followed in such cases. Section 25B(8) bars the appeals against an order of recovery of possession except a provision of revision to the High Court. Thus a combined effect of Section 25B(6), (7) and (8) would lead to expeditious disposal of eviction petitions so that a landlord need not wait and suffer for long time. On the other hand, when a tenant is denied leave to defend although he had fair chance to prove his defence, will suffer great hardship. In this view a balanced view is to be taken having regard to competing claims.”*

[7.4]. Learned counsel further argued that the application filed by the petitioner/tenant should be accepted because the respondent-landlord concealed material facts by presenting an incorrect site plan. It was further claimed that the area behind the shop and hall was constructed, but this fact was not depicted in the site plan attached to the eviction petition, rather it was shown vacant. Consequently, the eviction petition should be dismissed solely on this short ground alone.

[7.5]. Learned counsel also argued that the respondent-landlord never approached the Court with clean hands. He pointed out that in the eviction petition, the respondent-landlord claimed to have become the owner of the demised premises through a registered Will dated 17.02.1997 executed by his deceased father in his favour, along with his two sons. However, in the previous eviction petition filed in 1995 by his deceased father against another tenant, Uttam Chand, though the father died during pendency of the eviction petition, however, the respondent-landlord and his sons did not make any effort to get themselves



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impleaded on the basis of the said Will. Instead, the respondent, his two sons and his mother - Smt. Raj Kaur, pursued the eviction petition as the natural heirs of the deceased Ram Lal Singh. Therefore, learned counsel contended that the Will dated 17.02.1997 was a suspicious document and should be tested during the trial, so as to be evaluated and adjudicated upon the *locus standi* of the respondent-landlord for the purposes of filing of eviction petition.

[7.6]. Learned counsel further contended that the learned Rent Controller committed a manifest error in adjudicating the merits of the application for leave to contest the eviction petition filed under Section 13-B of the 1949 Act. He argued that at the stage of consideration of the application for leave to contest, the objections raised therein were to be taken up of probative value rather than adjudicated upon. Learned Counsel contended that the sole consideration at this stage should be whether any probable defence was made out from the contents of the application without calling upon the petitioner-tenant or deciding upon merits thereof. In support, he relied upon the decision of the Hon'ble Apex Court in ***Precision Steel and Engineering Works vs. Prem Deva Niranjana Deva Tayal***, reported as ***"1982 AIR (Supreme Court) 1518"***. Relevant paragraph Nos.9 and 12 of that decision are reproduced below:-

*"9. Undoubtedly the procedure prescribed in Chapter IIIA of the Act is materially different in that it is more harsh and weighted against the tenant. But should this procedural conundrum change the entire landscape of law ? When a landlord approaches Controller under section 14(1) proviso (e), is the court to presume every averment in the petition as unchallengeable and truthful ? The consequence of refusal to grant leave must stare in the face of the Controller that the landlord gets an order of eviction without batting the eye lid. This consequence itself is sufficient to liberally approach the prayer for leave to contest the petition. While examining the question whether*



*leave to defend ought or ought not to be granted the limited jurisdiction which the Controller enjoys is prescribed within the well defined limits and he cannot get into a sort of a trial by affidavits preferring one set to the other and thus concluding the trial without holding the trial itself. Short circuiting the proceedings need not masquerade as a strict compliance with sub-section (5) of section 25B. The provision is cast in a mandatory form. Statutory duty is cast on the Controller to give leave as the legislature uses the expression 'the Controller shall give' to the tenant leave to contest if the affidavit filed by the tenant discloses such fact as would disentitle the landlord for an order for recovery of possession. The Controller has to look at the affidavit of the tenant seeking leave to contest. Browsing through the affidavit if there emerges averment of facts which on a trial, if believed, would non-suit the landlord, leave ought to be granted. Let it be made clear that the statute is not cast in a negative form by enacting that the Controller shall refuse to give to the tenant leave to contest the application unless the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order etc. That is not the mould in which the section is cast. The provision indicates a positive approach and not a negative inhibition. When the language of a statute is plain, the principle that legislature speaks its mind in the plainest language has to be given full effect. No canon of construction permits in the name of illusory intendment defeating the plain unambiguous language expressed to convey the legislative mind. And the legislature had before it order 37, an analogous provision where leave to defend is to be granted and yet avoiding the phraseology of the Code of Civil Procedure, namely, 'substantial defence' and 'vexatious and frivolous defence', the legislature used the plainest language, 'facts disclosed in the affidavit of the tenant'.*

xxx                      xxx      xxx

*12. The manifest error committed in the procedure followed at present by the Controller under section 25B may be pointed out. The tenant has to file an affidavit stating the grounds on which he seeks to contest the application. The Controller may accept an affidavit in reply if landlord chooses to file one. So far there is no difficulty. There then follow affidavit in rejoinder and sur-rejoinder and the documents are produced and when this procession ends the Controller proceeds to examine the rival*



*contentions as if evidence produced in the form of the affidavits untested by cross-examination and unproved documents are before him on the appreciation and evaluation of which he records an affirmative finding that the facts disclosed in the affidavit of tenant are not proved and therefore leave to contest should be refused. In our opinion, this is wholly impermissible. The regular trial required to be held by a Court of Small Causes as contemplated by sub-section 6 read with sub-section 7 of section 25B is not to be substituted by affidavits and counter-affidavits at the stage of considering tenant's affidavit filed for obtaining leave to contest the petition under sub-section 4. Sub-section 6 enjoins a duty on the Controller where leave is granted to the tenant to contest the application to commence the hearing of the petition as early as practicable and sub-section 6 prescribes procedure to be followed as if the Controller is a Court of Small Causes. The Court of Small Causes follows the summary procedure in the adversary system where witnesses are examined and cross-examined and truth of averment is decided on the touchstones of cross-examination. A speedy trial not conforming to the well-recognised principle of arriving at truth by testing evidence on the touchstone of cross-examination, should not be easily read into the provision at a stage not contemplated by the provision unless the statute positively by a specific provision introduces the same. The scheme of section 25B does not introduce a trial for arriving at the truth at the stage of proceeding contemplated by sub-section (4) of section 25B."*

[7.7]. Learned Counsel for the petitioner also pointed out that once the issue regarding the sufficiency of accommodation available with the respondent/landlord was specifically raised in the application for leave to contest, it was required to be adjudicated upon by the learned Rent Controller. Consequently, the impugned order was liable to be set aside on this count alone.

[8]. On the other hand, learned Counsel for the respondent-landlord argued that this was never a case of splitting up of tenancy. While referring to paragraph No. 8 from the application for leave to contest filed by the petitioner-



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tenant, learned Counsel submitted that the factum of one separate hall and one shop under tenancy of the petitioner was admitted in his pleadings and therefore, separate eviction petitions against all the tenants were rightly filed so as to seek possession of the entire tenanted premises as one unit. He thus submitted that the petitioner-tenant was estopped from raising any such plea of splitting up of tenancy. Paragraph No. 8 from the application for grant of leave to contest being relevant is reproduced below:-

*“8. That the petitioner has deliberately concealed the factum of other business/commercial properties and their sales. The petitioner with fraudulent intention had not mention in the petition that he is owning and being in possession of properties. Even as per T.S.I. form attached with the petition the name of the petitioner does not figure in the T.S.I. form attached. In fact the petitioner is interested in getting the Hall & one shop in occupation of the applicant vacated and then to sell the same. The present ejectment petition has been filed with a view to sell the same at high prices after getting the Hall & one shop vacated from the tenant with ulterior motives and by concealing the material facts. The petitioner has not filed the petition with bonafide intention. Rather he has come to the court with oblique motive and is not entitled to invoke Section 13-B of the Act. Petition filed is not bonafide but malafide. The petitioner has concealed the true facts. In the petition, petitioner has mentioned the rate of rent is Rs.800/- whereas the total rate of rent is Rs.800/- per month for one Hall and one shop. As such the petition is bad for partial ejectment. The two separate petitions do not lie because the tenancy was one and was taken at one and the same time and is indivisible.”*

[8.1]. Learned counsel also pointed out that there was no concealment of any material fact by the respondent-landlord while filing the site plan. The plan depicted shops and a hall under tenancy of different individuals, while the remaining area was shown as the respondent-landlord's ownership. He further



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argued that the remaining area was never shown as vacant or constructed, so it never prejudiced the petitioner-tenant. Learned counsel also submitted that mere fact that in the earlier eviction petition, on account of death of father namely Ram Lal Singh, the impleadment was not based on Will dated 17.02.1997, was never material at that point of time as the mother of the respondent-landlord was alive and thus, it was thought appropriate to implead her also being heir of deceased Ram Lal Singh. Learned counsel further pointed out that the Will dated 17.02.1997 was neither challenged by the petitioner-tenant nor was it permissible for him to do so being a tenant in the premises in question.

[8.2]. Learned counsel further argued that once a specific plea was raised in the eviction petition that the respondent-landlord required all the shops and hall to convert into one portion for setting up of his business of manufacturing of auto parts, there was a statutory presumption attached to the said need of the respondent-landlord in terms of intent of the provision of Section 13-B of the 1949 Act and thus the order passed by the learned Rent Controller was based on proper appreciation of the pleadings and the material available on record, therefore, called for no interference.

[9]. I have heard learned counsel for the parties and perused the paper book. I am unable to find substance in the submissions made on behalf of the petitioner.

[10]. The first and foremost plea raised on behalf of the petitioner-tenant is that there being splitting up of a tenancy on the part of respondent-landlord, the two separate eviction petitions preferred at his instance were not maintainable. However, from a perusal of contents of para No.8 of the application for grant of leave to contest, it becomes apparent that the petitioner-tenant himself was

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conscious of the fact that he was occupying two separate portions in the form of one hall and one shop as part of tenancy. In such circumstances, even if it was presumed in favour of the petitioner-tenant that both the portions were part of one tenancy still the filing of two separate eviction petitions for two separate portions under one tenancy by the respondent-landlord by any stretch of imagination cannot be termed to be splitting of tenancy. This is because Section 13-B of the 1949 Act itself allows a landlord to seek eviction of different tenant from one complete premises. Moreover, the tenant could only raise the argument about splitting up of tenancy, if it caused him prejudice or an undue advantage to the landlord. However, in the present case once it was admitted in the application for leave to contest that the petitioner-tenant was in occupation of one hall and one shop and two separate eviction petitions were filed qua these two separate portions, there was no question of any prejudice to the petitioner-tenant or any kind of undue advantage or benefit to the respondent-landlord in terms of the statutory scheme laid down under Section 13-B of the 1949 Act, thus the plea of splitting of tenancy was not made out. Furthermore, given the circumstances, dismissing the landlord's claim for possession of the accommodation he needs for his own use solely on technical aspect of splitting tenancy, which was not even evident from the records, would thwart the very purpose and objective of Section 13-B of the 1949 Act and would be contrary to justice, equity, and good conscience. Additionally, this case was not about seeking eviction only from part of the tenanted property. Therefore, in my humble opinion, the relevant legal principles established in the Hon'ble Apex Court's cases of **Habibunnisa Begum**, **Anand Parkash Mangala**, and **Inderjeet Kaur** (supra) are not applicable to this case.

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[11]. Furthermore, the plea raised by the petitioner-tenant regarding the incorrect site plan filed by the respondent-landlord is devoid of merits. A perusal of the site plan shows that the portion of the demised property beyond the shops and the hall is the property of the respondent and it is nowhere described that the portion of property besides shops and the hall is vacant. Consequently, the site plan cannot be considered contrary to the factual situation at the location, as no prejudice was caused to the petitioner-tenant. This is especially true since no alternative site plan was ever submitted by the petitioner-tenant along with his application for leave to contest the site plan appended by the respondent-landlord in conjunction with the eviction petition. Moreover, it was nowhere pleaded by the petitioner that the remaining part of the property owned by respondent could be utilised by him for the purposes of setting up of his business.

[12]. In the humble opinion of this Court, the plea raised on behalf of the petitioner-tenant with respect to the Will dated 17.02.1997 been not relied upon in the previous eviction petition preferred at the instance of the deceased father of the respondent-landlord has no material bearing in the given facts. Even if, in any previous eviction petition preferred at the instance of father of the respondent-landlord in the year 1995 against any of his tenant, and he died during the pendency, the Will dated 17.02.1997 was not relied upon for the purposes of pursuing the suit so as to implead the successors of the deceased father in the form of beneficiaries of the said Will, the same was not fatal to the cause of respondent-landlord in the eviction petition. At that time, the mother of the respondent-landlord being alive was primarily impleaded as the widow of the deceased Ram Lal Singh, there being no conflict of interest among the heirs. Moreover, the petitioner merely being tenant of the demised premises, it was never permissible



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for him to question the validity of the Will dated 17.02.1997 which was in any case an arrangement of inheritance between the successors of deceased landlord Ram Lal Singh, nor the same having any bearing upon the rights of respondent-landlord to have sought eviction of the premises in question as admittedly, the father of respondent-landlord died on 29.09.2000, whereas the eviction petition was preferred on 20.04.2009 and even if it was presumed that there was no Will dated 17.02.1997, the respondent-landlord in any case had inherited the property in question being one of the legal heir of deceased Ram Lal Singh.

[13]. Further, even the probable defence would mean a plea which can *prima facie* stand the scrutiny of the fundamental legal parameters laid down under the statutory compass of the special statutory provision in the form of Section 13-B of the 1949 Act. Even if in the given facts and circumstances, the plea raised on behalf of the petitioner-tenant was taken to be of probative value based on the pleadings derived from the application for grant of leave to contest, the petitioner-tenant failed to establish a valid case for granting leave to contest. The mere fact that the learned Rent Controller did not specifically address the petitioner-tenant's arguments regarding the splitting of tenancy and the adequacy of the premises with the respondent-landlord did not prejudice the petitioner as observed earlier, the present was never a case of splitting tenancy. Moreover, the respondent-landlord presented a specific case in his eviction petition, stating that all four shops and the hall forming part of the same premises were required for setting up his own business of manufacturing auto parts by rebuilding and reshaping the demised premises as per his convenience and his need being *bona fide* was clearly made out from the facts and circumstances available on record.

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[14]. In such circumstances, the pleas raised on behalf of the petitioner(s)-tenant(s) not sufficient to grant leave to contest in his/their favour, no interference is called for with the impugned order passed by the learned Reference Court. Resultantly, all the petitions are hereby dismissed.

[15]. Civil. Misc. Application bearing CM No.2553-CII of 2019 is disposed of as not pressed. All other pending application(s), if any shall also stand disposed of.

January 15, 2026  
*Atik*

(HARKESH MANUJA)  
JUDGE

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |