



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
205

CR-5872-2024(O&M)
Date of decision: 25.03.2026

Lal Chand (since deceased) through LR

...Petitioner(s)

Vs.

Varinder Kaur & Another

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ankush Singla, Advocate
for the petitioner.

Mr. S.S. Rangi, Senior Advocate with
Ms. Kawaljit Kaur Dhillon, Advocate
Mr. Didar Singh, Advocate
for respondent No.1.

NIDHI GUPTA, J.

Present Revision Petition has been filed by the petitioner/tenant seeking setting aside of the order dated 08.08.2024 passed by the learned Appellate Authority whereby order dated 09.02.2017 passed by learned Rent Controller, Patiala dismissing the Rent Petition of the landlord was set aside; and Rent Appeal No.26 of 2017 filed by the respondent No.1/landlord was allowed, and petitioner was directed to hand over vacant possession of the demised shop within three months.

2. Brief facts of the case are that the landlord had filed Rent Petition on 15.09.2011 under Section 13 of the East Punjab Urban Rent Restriction Act



for eviction of the petitioner from the demised shop. Landlord had sought eviction of the petitioner from the demised shop on grounds of arrears of rent since June 2009 @ Rs.200/- per month till date; and also on the ground that the property has become unfit and unsafe for human habitation and part of the property had fallen down.

3. Vide judgment dated 09.02.2017, learned Rent Controller had dismissed the Eviction Petition on the ground that on the face of it, the Rent Petition appeared to be nothing but a vain attempt to get the shop vacated so that the landlord can deal with the entire building as per her wish and fancy. The landlord had filed Rent Appeal dated 27.03.2017. Vide impugned order dated 08.08.2024, the Appellate Authority has allowed the Eviction Petition setting aside the order of the Rent Controller and directing the petitioner/tenant to hand over vacant possession within three months.

4. Learned counsel for the petitioner inter alia submits that the learned Appellate Authority was in error in setting aside the well-reasoned order of the learned Rent Controller as the Rent Controller had passed the order after taking into account the report submitted by the Building Experts produced by both the parties; whereas the learned Appellate Court has only relied upon the report of the Expert engaged by the landlord while totally ignoring the report submitted by the Building Expert produced by the petitioner. Learned counsel submits that in doing so, a material error has occurred on the record of the case as a perusal of the report submitted by the



Building Expert engaged by the petitioner shows that only a part of the building in which the demised shop is situated, is damaged; whereas there is no damage to the remaining part of the building. Even in the report submitted by the Building Expert of the landlord, there is no evidence that the demised shop is unsafe in any manner. Even no finding has been returned by the Appellate Authority that the demised shop itself is unsafe. Yet, eviction of the petitioner has been ordered. Learned counsel argues that as the demised shop is just a small portion of an entire big building and there is no finding by either of the Building Experts or even by the Appellate Authority that the shop is unsafe in any manner. To substantiate his aforesaid submissions Id. counsel refers to the Site Plan, to demonstrate that only the projection/parapet from Point X to Point Y, which was existing without lintel support had fallen down. It is submitted that therefore, as reported by the Expert produced by the petitioner, there was no imminent danger to the building in question let alone the demised shop. As such, eviction of the petitioner could not have been ordered. It is contended that in this regard, learned Appellate Authority has misread and misappreciated the evidence available on file and therefore, the impugned judgment is a result of surmises and conjectures and presumption and assumptions and the same is liable to be set aside.

5. It is submitted that Appellate Authority was an error in relying upon the report submitted by the Expert of the landlord namely Sh. Fatehjit Singh Jolly as learned Appellate Authority has failed to appreciate that Sh.



Fatehjit Singh Jolly has himself admitted in his cross-examination that *"I have not passed any of Engineering Degree Course... ..During inspection I have not done any chemical examination. I have not done any lab test but structural cracks were physically checked by me... ..I have not checked the foundation by digging volunteered It was visible from the above... .."*. It is pointed out that the cross-examination of PW3 Sh. Fatehjit Singh Jolly makes it crystal clear that the Expert has not conducted any test to check the strength of the building or to check for structural cracks in the building, which can only be determined by conducting such tests. Therefore, the report submitted by Sh. Fatehjit Singh Jolly could not have been relied upon. On the other hand, Expert Sh. S.K. Malhotra, produced by the petitioner has a degree in Civil Engineering from Thapar College, Patiala and he is a retired Civil Engineer from Punjab Government (PWD B&R Department), who had appeared as RW3 and has given expert opinion to the effect that the demised shop was not unfit and unsafe for human habitation. But the learned Appellate Authority has failed to consider the same while deciding the case. Moreover, Appellate Authority has failed to appreciate that the Building Expert of the petitioner was more qualified and had even retired from the Government Department, PWD (B&R). Even the report of the petitioner's Expert was more detailed; whereas the report of the landlady's Expert was deficient on various material aspects which have been duly admitted by him in his cross-examination. Thus, order of Appellate Authority is a result of misreading of evidence.



6. Learned counsel reiterates that the Appellate Authority has failed to consider that the only damage which has happened to the entire house (demised property is a small portion of the said house) is only and only confined to one projection on the front side. It is matter of common knowledge that projection or commonly known as cantilever is built without any underlying support of the pillar. Evidence has come on the file in the shape of expert reports and oral testimonies/admissions that major portion of the house is willfully abandoned by the respondent No.1 in order to close the access to the roof so that wild growth of plants may happen and water remains clogged. Due to such manual endeavors of the respondent No.1, the so-called damage to the projection has happened to the property and in no manner, the petitioner should not be punished for the same. Learned Appellate Authority has failed to consider that possibility of manual damage to the projection also cannot be ruled out because if the photographs of the damaged projection are seen, it is crystal clear that the iron rods are still intact. Had it been a case of genuine damage to the projection on account of poor health of the property, then the iron rods would have had broken down with the cement mortar on account of rusting of iron rods. Even otherwise, the Appellate Authority has also failed to see that the damaged projection is a very very small portion of the entire property and in the light of the above, the eviction from the demised property could not have been ordered.



7. Learned counsel further argues that the provision providing for eviction on the ground of building having become unfit and unsafe for human habitation i.e. Section 13(3)(a)(iii) firstly uses the phrase *“if he requires it to carry out any building work at the instance of the Government or local authority”* and then uses the phrase *“if it has become unsafe or unfit for human habitation”* after the usage of the word "or" in the said two phrases. The Appellate Authority has failed to consider that the positive evidence to be led by the landlord should be of such unimpeachable character and the unfit/unsafe condition of the building should be such an extent that even the Government Authority had to act upon the same thereby asking the landlord to carry out building work. In the present case, the respondent No.1/landlady before filing the present ejectment petition, had tried to bring her case within the first part as she admittedly filed an application dated 24.01.2011 (Mark A) to the Commissioner, Municipal Corporation, Patiala thereby wanting to get a certificate that the property in question has become unfit and unsafe. Once the decision of the said application was not going favorable to the respondent No.1, she chose not to pursue the same. The relevant admission of the respondent No.1 in her cross-examination reads as under:

“...I have given the letters to MC and B & R with regard to unsafe building. They have even checked the building, but they have not given any notice to demolish the building...”



8. Ld. Counsel argues that respondent No.1 chose not to bring the said evidence on the file for vested reasons as she was fully aware that had that evidence would have come, then the same would go against her. It is due to this reason only that application dated 24.01.2011 (Mark A) was not pleaded in the ejectment petition. No official from the Municipal Corporation was called by the respondent No.1 to prove the aforesaid fact in affirmative and even no record regarding the fate of the aforesaid application was summoned by the respondent No.1 in her affirmative evidence.

9. Ld. Counsel for the petitioner further submits that the eviction was sought on the ground that demised premises has become unfit and unsafe. Admittedly demised premises in the present case is the shop which is in occupation of the petitioner. Even by considering the evidence led by the respondent No.1, there is no iota of evidence that the demised premises i.e. the shop in question has become unfit and unsafe. During the trial, the respondent No.1 has instead of proving that the demised premises has become unfit and unsafe has proceeded to claim that the adjoining premises (house) of which demised premises is the alleged part has become unfit and unsafe. The learned Appellate Authority should not have ordered eviction by ignoring the aforesaid fact that the so-called house is a separate unit and has a separate opening on a different road than the demised premises. Even when the question was put to the respondent No.1 in her cross-examination that the foundation and the lanter of the demised premises is separate then the



adjoining house then she could not deny the same and feigned ignorance. Aforesaid vital aspect of the matter has wrongly been ignored and not examined by the Appellate Authority. In support, learned counsel relies upon judgment of Hon'ble Supreme Court in **Piara Lal v. Kewal Krishan Chopra, (SC) :**

Law Finder Doc ID # 54767; decided on 06.05.1988, wherein it is held that:-

“East Punjab Urban Rent Restriction Act, 1949, Section 13(3) (a)(ili) - Unsafe and un fit for human habitation - Roof of one of the rooms falling down - No evidence that remaining building was in damaged condition - Cannot be said that building was unsafe and unfit for human habitation - Tenant not liable to ejectment. 1982(1) RCR 413 and 1982(2) RCR 329 distinguished.”

10. Learned counsel for the petitioner also submits that the Building Expert of the petitioner was not allowed to enter the demised premises by husband of the respondent No.1/landlord namely Narender Pal Singh.

11. It is accordingly prayed that the present Revision Petition be allowed; and the impugned judgment dated 08.08.2024 passed by learned Appellate Authority, Patiala be set aside; and judgment dated 09.02.2017 passed by learned Rent Controller, Patiala, be restored.

12. Per contra, learned Senior Counsel for the respondent No.1/landlady inter alia submits that the respondent No.1 has proved by way of cogent evidence that the building in which the demised shop is situated, is uninhabitable. The demised shop cannot be viewed as separate from the building as it has been admitted by the counsel for the petitioner himself that



the parapet has fallen off. It is submitted that as has been held in various judgments, the respondent No.1 cannot wait for the entire building to collapse and thus endangering the life and property of other people in the vicinity, before seeking the eviction of the petitioner. There is even a school situated opposite the building in question. It is submitted that there can be any untoward casualty if any child comes from the school into the building in question. Moreover, it is a 50-year-old building and requires urgent repair work. However, the petitioner is adamant not to vacate the demised premises. It is submitted that in the demised shop, the petitioner runs his drycleaning business and the same has become unsafe due to the dilapidated condition of the entire property. The verandah, parapet and walls have collapsed or developed cracks and the shop has also suffered structural damage. Despite the above facts, the petitioner refused to vacate the demised premises or pay arrears of rent. It is accordingly prayed that the present Revision Petition be dismissed and the order of the learned Appellate Authority be upheld.

13. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the petitioner.

14. Perusal of record of the case shows that the petitioner has been a tenant in the demised shop since January 1975. The petitioner is occupying the shop which is a part of the property bearing No. B-45/296 which is owned by the respondent no.1/landlady since November 2006.



15. It has been submitted on behalf of the petitioner that the learned Appellate Authority was in error in relying upon the Report Ex.PW3/B of the Building Expert Fatehjit Singh Jolly produced by the landlady on the ground that Fatehjit Singh Jolly is not a qualified Engineer and also because he had not conducted the inspection in proper manner as no chemical examination was done nor any lab test was conducted; whereas report submitted by Sh. S.K. Malhotra/RW3 produced by the petitioner was reliable. However, the said contention of the petitioner is without merit as, a perusal of the record shows that Sh. S.K. Malhotra while appearing as RW3 has admitted in his cross-examination that: -

"I have seen my affidavit Ex. RW/A. dated 15.10.2016 in which para no. 7 the last line mark is enclosed as point x today is lying vacant and it not filled either in type or with the pen. It is correct that I have not mentioned the property no of building which shop in question is a part. It is wrong to suggest that I seen shop in dispute from inside and outside and made the report. It is wrong to suggest I intentionally ask the photographer to take photographs of that portion of the building not showing any damage to the building. It is wrong to suggest that I was asked by the husband of Varinder Kaur to take the photographs of that portion or I intentionally clicked it to help the person who calling me. I do not know the fact that the shop in dispute is a part of the building having property No. 2045/296, Mohalla Lal Bagh Patiala. It is wrong to suggest that whole of the building except the shop in dispute by lying locked when I reached for inspection. I know Narinderpal Singh husband of Varinder Kaur who stood today



behind me. It is correct that building locks were open by Nariderpal Singh above said in my presence. I have not taken the sample of mud mortar of the bricks laid in the walls of the buildings. I had visited the building on 03.10.2016 and submitted my report on 15.10.2016 and the report is also dated 15.10.2016. I have not submitted the negatives of photographs which are attached with my report. Volunteered that these photographs were generated with a digital camera. I have not submitted the memory card which was in digital camera stated above with my report. The photographs are signed and stamped by S. Jaspal Singh. It is correct that I have not produced the bill either of photographs of the lab from where the photographs were transferred in laptop by me and prints were also pasted by me. It is wrong to suggest that I wrongly stated regarding the typing of the note or taking their print. I have not mentioned about the volunteered portion as stated above either in my affidavit or in my report. It is correct that the condition of the property shown in photographs No.4 is not mentioned in my report as well as in affidavit. It is wrong to suggest that I have not mentioned condition of building in photograph no.5 in my affidavit or my report. It is correct that I have not mentioned with regard to crack on for shown visible in photograph no. 12. Voluntarily stated that all the photographs and the description is a part of my report and these cracks need repairs. It is wrong to suggest that crack in the linters which I have not photograph intentionally to help the other party. I have seen the photographs Ex.P2/1 to Ex PW2/47 in the file. I cannot comment upon these photographs as these are not part of my report. After seeing the photographs Ex. PW2/1 to 47 whether these photographs are the photograph of property in



dispute or not or a part of building which I have visited without comparing the same from the site. I cannot say whether the photograph showing the building in Ex. PW2/1 to 3 were visited by me or not. I can only give the reply if these photographs are given to me for verification of the site. I have seen photographs no.4 attached with my report. I have seen Ex. PW2/1 even after comparing these photographs together in the court I cannot comment whether these photographs are of same building which I have visited or not. I have seen photograph no.5 attached with my report after seeing Ex. PW2/1 and photograph no.5, I cannot comment even after comparing whether these two photographs of the one and the same building or not. It is correct that I have specs with number which was given to me by the doctor for the correction of sight. I have seen these photographs with the wearing readable specs which is same specs which I am wearing. It is correct that I am not wearing specs in routine whether to my movement or while driving any vehicle. It is wrong to suggest that I am intentionally not comparing the photographs no.5 and 4 with Ex. PW2/1 intentionally as these photographs are of same building. It is wrong to suggest the building is 70 to 80 years old building. It is wrong to suggest that all the photographs Ex. PW2/1 to Ex PW2/47 are the photographs of the building of which shop in dispute is a part. It is wrong to suggest that with the intention to help the respondent I have intentionally avoided the reply of abovesaid questions. It is wrong to suggest that the total building no. 2045/296 is unfit and unsafe for human habitation. It is wrong to suggest that I have given the wrong report at the instance of person calling me. I was contacted by Mr. Rajinder Kumar S/o Lal Chand to visit the spot. I had given a notice to Rajinder Kumar at



his shop address mentioned in the advance notice. It is wrong to suggest that I have prepared a false report, wrong report ignoring the cracks in the building and fallen portion of the building and damaged portion of the building, with the intention to give a report favorable to the respondent calling me. It is wrong to suggest that the building from the date of the present case was unfit and unsafe for human habitation. It is wrong to suggest that I depose falsely.

RO & AC

Sd/-

S.K. Malhotra”

(Emphasis supplied)

16. From a bare reading of the above, it is clear that RW3 Shri SK Malhotra/ Expert produced by the petitioner, has admitted in his cross-examination that report submitted by him suffers from glaring deficiencies *inasmuch as* he has admitted that he has not even taken sample of mud mortar of the bricks laid in the walls - let alone, conduct any lab test or chemical examination on them. Sh. SK Malhotra has also admitted that there are cracks which need repair. No such cracks are mentioned in the report submitted by Shri SK Malhotra. Further, when he was confronted with the photographs of the building which depicted extensive damage to the building in question, he admitted that the said photographs/damage does not form a part of his report. He further admitted that he has not mentioned with regard to cracks on floor, shown visible in photograph No.12. The quality of the inspection conducted by Shri SK Malhotra is evident from the preliminary fact that he is not even aware



that the demised shop is situated in the Building no. B045/296. It would therefore appear that Shri SK Malhotra has deliberately given an inaccurate report to support the case of the petitioner.

17. From the above, it is also clear that contention of the petitioner that Sh. S.K. Malhotra was not allowed to inspect the demised premises, is on the face of it, incorrect as Sh. S.K. Malhotra has categorically admitted in his cross-examination that: -

"... ..It is wrong to suggest that whole of the building except the shop in dispute by lying locked when I reached for inspection. I know Narinderpal Singh husband of Varinder Kaur who stood today behind me. It is correct that building locks were open by Narinderpal Singh above said in my presence... ..".

18. Even in the report (Ex.RB - at page 141 of the LCR) submitted by Sh. S.K. Malhotra he has mentioned that: –

"It is brought to the kind notice of the Hon'ble Court that S. Narinder pal Singh husband of the petitioner Smt. Virinder kaur, though present at site but refused to sign the said spot memo and also did not allow the undersigned to inspect the portion of the property under his possession.

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I have checked the disputed shop from inside and outside before forming my opinion and arriving at the conclusion and the same are also based upon the detailed site observations."



19. From a reading of the above, it is clear that contention of the petitioner that husband of respondent No.1 namely Narinder Pal Singh had not permitted Sh. S.K. Malhotra to inspect the demised premises, is patently incorrect and a mis-statement of fact. From a reading of the above it is clear that at best, Sh. Narinder Pal Singh had not permitted Sh. S.K. Malhotra to inspect "*portion of the property under his possession*". Furthermore, if the said contention of the petitioner were to be accepted, then, in any event Report Ex.RB of Shri SK Malhotra could not have been relied upon as it would be incomplete being based on examination/inspection of only a part of the demised building.

20. At this juncture, it would be apposite to refer to the observations of the Appellate Authority in respect of the Report Ex.PW3/B submitted by PW3 Shri Fatehjit Singh Jolly, Building Expert examined by landlady, as follows:

"15. In this context, the petitioner has duly examined Er. Fatehjit Singh Jolly as PW3, who has proved on record his technical report EX PW3/B and has stated that on 8.4.2014 he has visited the site in dispute in the presence of both the parties and photographs of the building were taken. He has stated that the demised shop was freshly painted in white colour from inside, which is part of property No.B- 45/296, Mohalla Lal Bagh, Patiala and that the building is 50 years old. The projection of the building has partially fallen down and there is weed growth on the slabs. He has further stated that dampness and weak structure are adding problem to the building and there are many cracks in the roof slab in the building at ground floor and first floor and there



are also cracks under building in roof slab and structural crack in the room at first floor above the shop and at the same portion the concrete has left its bond with iron bars, which have become rusty due to dampness. He has also stated that the projection has fallen down and the iron bars are hanging and there is no access to 2nd floor staircase, as the roof slab for approaching the same has partially fallen down. He has further stated that **there are major cracks in the room above the shop under the possession of Lal Chand, which are in the walls and roof slab and are very dangerous in nature.** He has also stated that there is dampness in the wall of the shop, which can be seen from the side of kitchen adjoining shop at ground floor, due to which the mortar has become lifeless. He has further stated that the demised shop has been repaired and painted freshly from inside at the time of visit and further opined that structure of the building has outlived its life and is unsafe and unfit for human habitation. The testimony of Er. Fatehjit Singh JollyPW3 has been duly corroborated by the statement of the petitioner Varinder Kaur PW1, who has deposed on the lines of her petition. Both the above said witnesses were cross examined at length, by the learned counsel for the respondent, but their testimonies could not be shattered on any material count."

(Emphasis added)

21. Thus, PW3, Er. Fatehjit Singh Jolly has proved on record his report (Ex.PW3/B). PW3 stated that on 08.04.2014, he visited the site in dispute in presence of both parties and photographs of building were taken. He stated that the building is 50 years old. The projection of building has partially fallen



down and there is weed growth on the slabs. He stated that dampness and weak structure are adding problem to building at ground floor and first floor and there are also cracks under building in roof and structural crack in room at first floor. He opined that structure of the building has outlived its life and is unsafe and unfit for human habitation. From the above it would appear that Shri Fatehjit Singh jolly has conducted a thorough inspection, unlike Shri SK Malhotra. Testimony of PW3 was duly corroborated by statement of landlord Varinder Kumar PW1. Nothing has been shown by the petitioner to controvert or discredit the above Report Ex.PW3/B submitted by Shri Fatehjit Singh Jolly. Thus, it is clear that learned Appellate Authority has correctly placed reliance upon the report submitted by the landlady's Expert and has made no error in not relying upon the petitioner's Expert. Mere difference in qualification would not be sufficient ground to discard the report of Shri Fatehjit Singh Jolly.

22. It has next been contended by learned counsel for the petitioner that the demised shop is a small portion of the big building and there is no evidence that the demised shop was unsafe and not fit for human habitation. Firstly, the said contention of the petitioner is belied from the above detailed report Ex.PW3/B referred to in the impugned order which refers to extensive damage, not only in the building, but also to the demised shop. Even otherwise, the said contention of the petitioner is liable to be outrightly rejected as the petitioner Rajinder Kumar, while appearing as RW2, LR No.IV of deceased tenant Lal Chand, has admitted during his cross-examination that "*water and*



electric connection to the said property B-45/296 is disconnected from the last seven years.”. Needless to say, a property without water and electricity connection cannot be said to be fit for human habitation. In today’s time and age, Water and electricity connection form part of the basic amenities and are considered to be essential commodities. When confronted with this, learned counsel for the petitioner has submitted that the demised premises is only a shop, and therefore, no water and electricity connection is required in the shop. However, it is not clear as to how the petitioner is able to run his drycleaning business without water and electricity connection. It would therefore appear that the petitioner has mala fide intention and does not wish to vacate the demises premises under any condition merely with a view to harass the respondent No.1/landlady.

23. The malafide intent of the petitioner is also discernible from the fact that Petitioner has alleged that landlady has deliberately caused damage to the demised building in order to evict the petitioner. Firstly, this statement amounts to admission on part of the petitioner that the building is indeed damaged. Moreover, it is highly unlikely and hard to imagine that anyone would cause damage to their own property deliberately. Even otherwise, there is no evidence whatsoever to this effect that landlady had deliberately caused damage to her building. Petitioner has produced no material whatsoever on record to substantiate his said irresponsible allegation.



24. The last contention of the petitioner is that under Section 13(3)(a)(iii), Certificate from the Municipal Corporation, Patiala was required that the property in question has become unfit and unsafe. However, even the said argument of the petitioner is without merit in view of the admitted fact that water and electricity connection to the entire building has been disconnected from the past seven years. Further, it has been admitted by learned counsel for the petitioner himself that in respect of the unfit condition of the building in question, the respondent No.1 had filed application dated 24.01.2011 (Mark A) to the Commissioner, Municipal Corporation, Patiala informing that the building in question had become unfit and unsafe. Therefore, the respondent No.1 had already vacated the demised building along with her family as the same is unfit and unsafe for human habitation. The landlady also placed on record photographs (Ex.PW2/27 to Ex.PW2/47) and Map (Ex.PW3/C), which goes to show that demised shop is part and parcel of building bearing No.B-45/296, which has outlived its life and is unfit and unsafe for human habitation.

25. In this regard, reference may be made to Division Bench judgment of this Court in **Sardarni Sampuran Kaur v. Sant Singh, (P&H)(DB) : Law Finder Doc ID # 57106; decided on 19.02.1982**, wherein it is held that: -

“A. East Punjab Urban Rent Restriction Act, 1949, Sections 13(3)(a)(iii) and 2 - Building partly occupied by tenant and partly by landlady - Portion in occupation of landlady becoming unsafe for human habitation - Landlady whether entitled to eject tenant



from part of building under his occupation (Yes). 1970 PLR 411(DB) relied. 1966 Court L.J. 772 and 1968 PLR 803 approved C.R. 1711 of 1977, decided on 18.4.1980 overruled.

If the substantial part of the integrated larger building has become unsafe and unfit for human habitation the tenant can be ejected from the demised premises forming part thereof, under Section 13(3)(a)(iii) of the Act despite the fact that the particular portion in his occupation may not be so.

B. East Punjab Urban Rent Restriction Act, 1949, Section 13(3)(a)(iii) - Scope and application of Section 13(3)(iii) explained - Underlying purpose of this Section is Urban renewal.

Section 13(3)(a)(iii), visualises the reconstruction of the building either at the behest of the Government or other authority or in the event of its being rendered unsafe or unfit for human habitation.

The provision here does not seem to look at the matter in a narrower legalistic term of the individual rights of the tenants and landlords but perhaps on the larger social purpose of not obstructing urban renewal and the remodelling and reconstruction of structures either for their betterment at the instance of public authority or where they have outlived their usefulness and become unsafe and unfit for human habitation.

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18. To conclude the answer to the question posed in para 2 above is rendered in the affirmative and it is held that if the substantial part of the integrated larger building has become unsafe and unfit for human habitation the tenant can be ejected from the demised premises forming part thereof under Section 13(3)(a)(iii) of the Act despite the fact that the particular portion in his occupation may not be so."



(Emphasis added)

26. Reliance may be placed upon judgment of this Court in **Amarjit Kaur v. Tilak Raj Ahuja (P&H) : Law Finder Doc ID # 397925; decided on 08.08.2012**, wherein it is held that: -

“Building unfit and unsafe for habitation - It can never be a wish of the Court and of the parties that the building that is said to be uninhabitable must be such as it would collapse and cause casualties to litigants during its long journey in Court.

Unless a building is really of archaeological value, there is no reason why a landlord should allow the building to go into ruins and allow it to be preserved in that state.

East Punjab Urban Rent Restriction Act, 1949, Section 13(3)(iii) - Eviction - Building unfit and unsafe for human habitation - It can never be a wish of the Court and of the parties that the building that is said to be uninhabitable must be such as it would collapse and cause casualties to litigants during its long journey in court - Report of Building Expert showing that there were cracks at several places and the walls were not true to the plumb - The parapet on front side was found missing entirely - Expert had also noted that doors had been broken and it was not fit for human habitation - There was also evidence brought that neighbours had their own shops on separate foundation - Evidence of landlord that the level of floor had sunk, front portion of first floor had fallen during time of trial, this fallen portion was reconstructed during of course of trial - Appellate Court found that report of building expert was detailed and it was verily a clincher - Eviction order is founded on appropriate inferences from the evidence led by the parties, confirmed - Petition dismissed.



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4. Unless a building is really of archaeological value, there is no reason why a landlord should allow the building to go into total ruins and allow it to be preserve in that state. The learned counsel appearing on behalf of the petitioner passionately argues that after all the building has not completely collapsed, although, the case has been instituted in the year 1983 and the fact that the building has survived this litigation itself shows that the condition of the building as stated to be unfit and uninhabitable cannot be true. We must only see that if the building had not completely collapsed during this long litigation, the parties have been fortunate that extent. It can never be a wish of the Court and of the parties that the building that is said to be uninhabitable must be such as it would collapse and cause casualties to litigants during its long journey in Court.”

27. Reliance may also be placed upon judgment of this Court in **Tripta Devi v. Jagdish Kumar, (P&H) : Law Finder Doc ID # 132108; decided on 23.05.2007**, wherein it is held that:-

“East Punjab Urban Rent Restriction Act, 1949, Section 13(3)(a)(iii) - Unsafe and unfit for human habitation - Substantial portion of building fell down and became unfit and unsafe for human habitation - Tenant liable to eviction though portion of building occupied by tenant may not be in dilapidated condition. 1982(1) RCR (Rent) 413 (P&H) relied.

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10. Undisputedly, it is also admitted position that some portion of the first floor of the disputed shop had fallen down and malba of that portion was lying on the roof of the disputed shop. This fact



has been established even from the report (Ex. A3) of the Local Commissioner appointed in the civil suit filed by the respondent tenant and from the report (Ex. R1) of the Expert Sushil Kumar (RW2) produced by the tenant. In the reports of both the Experts, it has been stated that there are cracks in the wall of the demised shop. However, the Expert produced by the tenant suggested that those cracks could be repaired. It is an admitted fact that the entire building is an old one. Even the Appellate Authority has come to the conclusion that the bigger building to which the demised shop is a part, has become unfit and unsafe for human habitation. But the Appellate Authority has discarded the evidence while observing that this plea was not taken by the landladies in their ejectment application. In my opinion, the landladies are only required to take the plea that the demised premises has become unfit and unsafe for human habitation. They can prove this fact by leading evidence including to the effect that the demised shop is a part of the bigger building and that the substantial portion of that building has become unfit and unsafe for human habitation. This Court in Sardani Sampuran Kaur's case (supra) has clearly held that if the substantial part of the integrated larger building has become unfit and unsafe for human habitation, the tenant can be ejected from the demised premises forming part thereof under Section 13 (3)(a)(iii) of the Act despite the fact that the particular portion in his occupation may not have become unfit and unsafe for human habitation. This principle was subsequently followed by this Court in Bishan Dass v. Smt. Phullan Rani and another, 1986(1) RCR (Rent) 475 : (1986-189 PLR 214, where a part of the superstructure above the shop has fallen down and due to that some cracks appeared in the walls of the shop, it



was held that since the substantial part of the integrated larger building has become unfit and unsafe for human habitation, the tenant is liable to be ejected from the shop in question also. In this case, undisputedly not only one room on the roof of the demised shop, but other rooms on the back portion of the shop had fallen down and deep cracks have been appearing in the walls of the shop. In such situation, in my opinion, the demised shop being part of the larger building, substantial portion of which has become unfit and unsafe for human habitation, is also liable to be vacated by the tenant on the ground that it has become unfit and unsafe for human habitation. In my opinion, the reasoning given by the Appellate Authority discarding those evidence on ground that there was no specific pleading, is not justified. Both the parties led their evidence by fully knowing the stands taken by each other. The tenant has been provided full opportunity to contest the claim of the landladies. It is not the case of the tenant that some prejudice has been caused to him by not particularly pleading a fact. In these circumstances, in my opinion, if the substantial part of the integrated larger building has become unfit and unsafe for human habitation, the tenant can be ejected from the demised premises forming part thereof under Section 13(3)(a)(iii) of the Act despite the fact that the particular portion in his occupation may not be in dilapidated condition. The other factor taken by the Appellate Authority that the landladies filed the ejectment application with mala fide object after four months of the purchase of the demised premises, is a conjecture and on such plea the right of the landladies to get the demised premises vacated on the ground that the same has become unfit and unsafe for human habitation, cannot be denied.”



28. The present case is squarely covered by the above said pronouncements. The judgment in **Piara Lal (supra)** relied upon by learned counsel for the petitioner is distinguishable on facts and law.

29. Relevant findings of the learned Appellate Authority in Paras 18, 19 and 20 of the impugned judgment dated 08.08.2024 are as follows: -

“18. Further, Rajinder Kumar, LR No.IV of the deceased respondent Lal Chand, has himself stepped into witness box as RW2 and during his cross-examination he has admitted that water and electricity connections of property No.B-45/296 have been disconnected for the last seven years. He has further stated that Varinder Kaur had purchased another house bearing No.68-C at Teliwara, Ragho Majra, Patiala, but he cannot say when the said house was purchased by her. He has further stated that he has not got measured the property No.B-45/296.

19. The other witness examined by the respondents, namely, Er. S.K.Malhotra, RW3, who is a building expert, has admitted in his cross-examination that property number or the building number of the property, of which the demised shop is a part. He has further stated that he does not know if the demised shop is part of property No.2045/296, Mohalla Lal Bagh, Patiala and that he has not taken the samples of mud, mortar or the bricks laid in the walls of the building. He has further admitted that he has not mentioned with regard to the cracks on the floor, shown visible in the photograph No.12. He has further stated that he cannot comment even after comparing whether there are two photographs of the one and the same building or not.



20. *It is settled proposition of law that, the report of Building Expert is ordinarily to be accepted, by the Court, unless any inherent defect is pointed out, in the report. Admittedly, no such defect has been pointed out, by the respondent or his counsel, in the report EX PW3/B, given by the building expert, Er. Fatehjit Singh Jolly, PW3. Rather, the photographs annexed with the report EX PW3/B, which are EX PW2/27 to EX PW2/47, have lent due credence to the opinion of Building Expert, Er. Fatehjit Singh Jolly, PW3. It has been held by Hon'ble Punjab & Haryana High Court, in the case law, cited as Bachhrag Jain Vs. M/s C.R. Trading Co., 2002(2) RCR 470 (P&H), while relying upon Division Bench judgment, titled as, Sampuran Kaur & ors. Vs. Sant Singh & ors., 1983 PLR 448, that in case substantial part of the integrated larger building has become unsafe and unfit for human habitation, a tenant can be ejected from the demised premises, forming part thereof, despite the fact that the particular portion, in his possession may not be so."*

30. Thus, judgment of the learned Rent Controller is based on a patent misreading and/or piecemeal reading of the evidence on record.
31. In view of the above, present Civil Revision Petition stands dismissed.
32. Pending application(s) if any also stand(s) disposed of.

25.03.2026
Sunena

(Nidhi Gupta)
Judge

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