CNR No: PHHC010821622021
2026:PHHC:125165

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.1884 of 2021 (O&M)

Manpreet Kaur . . . . Petitioner

vs.

Jai Singh . . . . Respondent

Reserved on: September 02, 2026
Pronounced on: September 07 , 2026
Pronounced fully/operative part : Fully

* * * *

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued By:- Mr. Vaibhav Sehgal, Advocate for the petitioner.

Mr. Amit Sharma (Kanav), Advocate for the respondent.

DEEPAK GUPTA, J.

This revision petition has been filed by the tenant challenging the order dated 12.08.2021 passed by learned Rent Controller, Jagraon in Rent Petition No.5 of 2021, titled *'Jai Singh v. Manpreet Kaur',* whereby the application filed by the petitioner-tenant seeking leave to contest was dismissed and, consequently, an order of ejectment was passed in a petition instituted by the respondent-landlord under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (for short, 'the 1949 Act').

2. The parties shall be referred to as 'tenant' and 'landlord', respectively, to avoid any confusion.

3. A perusal of the record would show that the respondent-landlord instituted the ejectment petition on 29.04.2021 under Section 13-B of the 1949 Act, claiming himself to be a Non-Resident Indian permanently settled in Canada. According to the landlord, the demised premises had been purchased by him vide registered sale deed dated 24.05.2012 and thereafter

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construction was raised thereon. The demised residential premises were let out to the petitioner on 17.01.2020 at a monthly rent of ₹20,000/-. Ejectment was sought on the ground of bona fide personal requirement, it being pleaded that whenever the landlord visits India, he fails to find any suitable accommodation other than the demised premises.

4. The petitioner-tenant moved an application seeking leave to contest the ejectment petition. During the course of those proceedings, learned Rent Controller, vide order dated 19.07.2021 (Annexure P-2), noticed that the Punjab Rent Act, 1995 (for short, 'the 1995 Act') had already come into force with effect from 30.11.2013. Relying upon the judgment of this Court in ***Krishan Kumar and others v. Kamla Devi and others, 2016 (1) RCR (Rent) 525***, learned Rent Controller observed that the landlord was required to move an appropriate application for amendment of the ejectment petition so as to bring the same in conformity with Section 24(3) of the 1995 Act.

5. Instead of seeking amendment of the petition, the landlord moved an application seeking reconsideration of the order dated 19.07.2021. It was contended that he had purchased the plot vide registered sale deed dated 24.05.2012 and had thereafter raised construction thereon and, therefore, according to him, the provisions of the 1995 Act were not applicable and the petition under the 1949 Act was maintainable.

6. The tenant, on the other hand, moved an application seeking dismissal of the ejectment petition on the ground that the 1949 Act had already been repealed and that the petition under Section 13-B thereof was not maintainable.

7. Learned Rent Controller, vide the impugned order dated 12.08.2021, accepted the contention of the landlord and observed that in view of Section 3(1) of the 1995 Act, the said Act was not applicable to the demised premises and, consequently, the petition under the 1949 Act was held to be maintainable. Learned Rent Controller thereafter considered the application filed by the tenant seeking leave to contest. Although the delay in filing the said application was condoned in view of the directions issued by

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the Hon'ble Supreme Court in the backdrop of the COVID-19 pandemic, the application seeking leave to contest was ultimately dismissed and an order of ejectment was passed against the tenant on 12.08.2021. Hence, the present revision petition.

8. Learned counsel for the petitioner-tenant has assailed the impugned order primarily on three grounds. *Firstly*, it is submitted that learned Rent Controller had no jurisdiction to review or reconsider its earlier order dated 19.07.2021. In support of this submission, reliance has been placed upon ***Patel Narshi Thakershi v. Pradyumansinghji Arjunsinghji, AIR 1970 SC 1273.***

9. *Secondly*, learned counsel submits that even assuming that Section 3 of the 1995 Act could have the effect of excluding the demised premises from the operation of the 1995 Act, learned Rent Controller was required to determine the date of completion of construction. The mere fact that the plot was purchased in the year 2012 does not establish the date on which the building was constructed. It is contended that if the building had been constructed before 30.11.2013, there was no exemption under Section 3(1)(c) of the 1995 Act and, conversely, if the building was constructed on or after 30.11.2013, the exemption would operate only for the period prescribed under the statute.

10. *Thirdly,* learned counsel submits that the 1949 Act stood repealed with effect from 30.11.2013 and no fresh right could be created under the repealed enactment in favour of a landlord in respect of a tenancy which itself came into existence in the year 2020. It is argued that the savings clause contained in Section 75 of the 1995 Act cannot revive a right under the repealed enactment, which had not accrued before its repeal. Reliance has been placed upon ***Kesho Ram Co. and others v. Union of India and others, (1989) 3 SCC 151*** and ***State of U.P. v. Hirendra Pal Singh, (2011) 5 SCC 305***.

11. *Per contra*, learned counsel for the respondent-landlord has defended the impugned order. It is submitted that the construction was raised after the purchase of the plot in the year 2012 and, therefore, the

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premises were exempt from the operation of the 1995 Act. It is further contended that the respondent being an NRI is entitled to seek possession of the premises and that the impugned order does not call for interference in revisional jurisdiction.

12. I have considered the submissions advanced by learned counsel for the parties and have perused the record.

13. The controversy essentially requires examination of the statutory scheme governing the demised premises after the coming into force of the Punjab Rent Act, 1995. The 1995 Act came into force with effect from 30.11.2013. Section 75(1) expressly repealed the 1949 Act. At the same time, Section 75 incorporated savings in respect of rights, privileges, obligations, liabilities and proceedings, which had already accrued or existed under the repealed enactment. Section 75(2) further provides that, notwithstanding such repeal, cases and proceedings in respect of premises, other than those owned by an NRI, let out prior to commencement of the 1995 Act would continue to be governed by the repealed Act.

14. The relevant provisions of Section 3 of the 1995 Act also deserve to be noticed at this stage. Section 3, as substituted by Punjab Act No.33 of 2013, provides, insofar as relevant, as under:

> "**3. Premises exempted from the operation of the Act.—**(1) Nothing in this Act shall apply,—
>
> (a) to any premises let out before the commencement of this Act;
>
> (b) xxxx *(not relevant to this case)*
>
> (c) to any premises constructed on or after the commencement of this Act, for a period of fifteen years from the date of completion of construction;
>
> Explanation I.—The expression 'date of completion of construction' shall mean the date of completion as intimated to the concerned authority or of assessment to property tax, whichever is earlier, and, where the premises has been constructed in stages, the date on which the initial building was completed and an intimation thereof was sent to the concerned authority or was assessed to property tax, whichever is earlier.
>
> Explanation II.—xxxx *(not relevant to this case)"*

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[underlined portion emphasized by this court]

15. The statutory provision makes it clear that the exemption under Section 3(1)(c) is linked to the date of construction/completion of the premises and not to the date of acquisition of the land.

16. Thus, the fact that the respondent purchased the plot on 24.05.2012 cannot, by itself, lead to the conclusion that the demised premises were exempt from the operation of the 1995 Act. What was required to be determined was the date of construction/completion of the demised building. The Explanation to Section 3 itself provides the statutory method for determining the date of completion.

17. The distinction is material in the present case because the tenancy admittedly commenced only on 17.01.2020. Therefore, the premises were not “let out before the commencement” of the 1995 Act so as to fall within Section 3(1)(a). The landlord's case could, at the highest, be brought within Section 3(1)(c), but only if the statutory requirements concerning construction were established.

18. No such categorical finding regarding the date of completion of construction has been recorded by learned Rent Controller. The impugned order proceeds substantially on the premise that since the plot had been purchased in 2012 and construction had thereafter been raised, the 1995 Act was inapplicable. Such reasoning does not satisfy the statutory test contained in Section 3(1)(c).

19. There is another and more fundamental aspect of the matter. The respondent-landlord instituted the petition on 29.04.2021 under Section 13-B of the 1949 Act. By that date, the 1949 Act had already been repealed for more than seven years. The tenancy itself had been created in January 2020. Therefore, no right under Section 13-B could have accrued in favour of the respondent-landlord prior to repeal of the 1949 Act.

20. The judgment of this Court in ***Krishan Kumar v. Kamla Devi (supra)***, assumes significance in this context. While considering the apparent

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overlap and inconsistency between the 1949 Act and the 1995 Act, this Court examined Sections 3, 24(3) and 75 of the 1995 Act and held that, in the case of an NRI landlord, a petition instituted after 30.11.2013 was required to be considered under the 1995 Act, notwithstanding the fact that the premises may have been let out before commencement of the new Act. The Court also noticed the substantive changes introduced by the 1995 Act in the rights available to NRI landlords.

21. The position was subsequently considered in ***Sharanjeet Singh v. Harsimran Singh Manchanda, 2024(2) RCR (Rent) 347***. In that case also, the petition had been instituted after the 1995 Act had come into force but was originally filed under Section 13-B of the 1949 Act. The Court examined the interplay between Sections 3, 24(3) and 75 and reiterated that an NRI landlord seeking the special remedy after commencement of the 1995 Act has to satisfy the requirements of the new statutory regime.

22. The present case, however, stands on an even stronger footing in favour of the tenant. Here, the tenancy itself was created on 17.01.2020, i.e. more than six years after commencement of the 1995 Act.

23. Section 24(3) of the 1995 Act provides:

> "Where an owner is a non-resident Indian and returns to India for permanent residence, he or she may apply to the Rent Authority for recovery of immediate possession of residential or/and non-residential premises let out by him or her on or prior to the commencement of this Act, which are required for his or her use, or for the use of any one ordinarily living with and dependent on him or her."

24. The statutory language is significant. The special remedy under Section 24(3) is available in respect of premises let out on or prior to the commencement of the 1995 Act. The present premises were admittedly let out on 17.01.2020. Consequently, the respondent cannot invoke Section 24(3) in respect of the present tenancy either.

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25. This distinction was not required to be examined in the same manner in cases such as ***Krishan Kumar (supra),*** where the Court was concerned with premises, which had been let out before commencement of the 1995 Act. The present case concerns a tenancy, which came into existence in 2020 and therefore falls outside the express temporal requirement contained in Section 24(3).

26. It follows that the respondent cannot obtain the benefit of Section 13-B of the repealed 1949 Act by merely describing himself as an NRI. Nor can he automatically convert such a petition into one under Section 24(3) of the 1995 Act, because the admitted date of tenancy itself takes the case outside the scope of Section 24(3).

27. The position under Section 75 of the 1995 Act also does not assist the respondent. Section 75 saves the previous operation of the repealed enactment and rights, privileges, obligations or liabilities already acquired, accrued or incurred thereunder. It does not create a new right under the repealed Act after the date of repeal. The Hon'ble Supreme Court has repeatedly recognised the distinction between preservation of an accrued right and creation of a fresh right after repeal.

28. In the present case, there was no pending proceeding under the 1949 Act on 30.11.2013. There was also no tenancy in favour of the petitioner on that date. The tenancy itself was created in 2020. Therefore, there could be no accrued right in favour of the respondent under Section 13-B of the 1949 Act, which could be saved by Section 75.

29. The reliance placed by learned counsel for the tenant upon ***Patel Narshi Thakershi v. Pradyumansinghji Arjunsinghji (supra),*** is also well founded to the extent that learned Rent Controller could not exercise a substantive power of review in the absence of statutory conferment of such power. The order dated 19.07.2021 had already recorded a judicial determination concerning the applicability of the 1995 Act and required the landlord to take appropriate steps in that regard. Instead of availing an

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appropriate remedy against that order, the landlord sought its reconsideration before the same authority.

30. Nevertheless, even assuming that the subsequent order dated 12.08.2021 is examined independently and the earlier order dated 19.07.2021 is not treated as having attained finality, the ultimate conclusion of the learned Rent Controller cannot be sustained for the substantive reasons noticed hereinabove.

31. The learned Rent Controller was required to determine, first, whether the 1995 Act applied to the demised premises. If the landlord claimed exemption under Section 3(1)(c), the date of completion of construction was required to be established in accordance with the statutory Explanation. Mere purchase of the plot in December 2012 was insufficient for this purpose.

32. If the premises were not exempt under Section 3(1)(c), the proceedings had necessarily to be governed by the 1995 Act. The special NRI remedy under Section 24(3), however, was itself unavailable because the tenancy was created only in 2020. If, on the other hand, the premises were found to be exempt under Section 3(1)(c), the respondent could not revive Section 13-B of the already repealed 1949 Act merely on that account. His remedy, if any, would have to be determined in accordance with the general law governing such exempt premises.

33. The statutory scheme, therefore, does not permit the respondent to travel from one enactment to another so as to retain the special remedy under Section 13-B despite the repeal of the 1949 Act and the admittedly post-2013 creation of the tenancy.

34. Once the very maintainability of the ejectment petition under Section 13-B of the 1949 Act fails, the question whether the tenant had disclosed sufficient grounds for grant of leave to contest becomes academic. An order of ejectment could not have been passed in a proceeding, which was not maintainable under the provision invoked by the landlord.

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35. It is, therefore, unnecessary for this Court to examine the individual grounds taken by the tenant in his application for leave to contest or to record any finding on the alleged bona fide requirement of the landlord. Any such finding may prejudice the parties in any proceedings, which the landlord may hereafter be entitled to institute under the law applicable to the premises.

36. For the reasons recorded above, the present revision petition is allowed. The impugned orders dated 12.08.2021 passed by learned Rent Controller, Jagraon in Rent Petition No.5 of 2021, titled Jai Singh v. Manpreet Kaur, whereby the application filed by the petitioner seeking leave to contest was dismissed and the consequential order of ejectment was passed, are set aside.

37. The ejectment petition filed by the respondent under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 is held to be not maintainable. The respondent shall, however, be at liberty to avail such remedy as may be available to him in accordance with law. Nothing contained in this order shall be construed as an expression of opinion on the merits of the landlord's alleged bona fide requirement or on the rights of either party under any other applicable statutory or general law.

38. It is clarified that if the respondent chooses to institute any fresh proceedings, the same shall be considered by the competent forum independently and in accordance with the statutory requirements applicable thereto. The observations made herein are confined to the maintainability of the present proceedings under Section 13-B of the repealed 1949 Act.

39. Pending miscellaneous application(s), if any, shall stand disposed of. There shall be no order as to costs.

September 07, 2026 **(DEEPAK GUPTA)**
Sarita **JUDGE**

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

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