

Punjab And Haryana High Court

Before : Justice Surya Kant.

Lakhwinder Kumar v. Pavitter Kaur

Civil Revision No. 1385 of 2004, 3176, 3180, 3470 of 2006, 5939, 6115, 6625, 6477, of 2007 and 986, 4503, 6624 of 2008

07.09.2009

East Punjab Urban Rent Restriction Act, 1949 - S 2(dd), 13B, 18A - NRI - When the landlord was residing in Canada but often visiting India, it was observed that it was not necessary for a Non-Resident-Indian-landlord to return permanently to India and even if the respondent/landlord requires the demised premises for his occasional visits to India, he is entitled to evict the tenant.

For Petitioner : Mr. Ashwani Talwar, Mr. Sarju Puri, Mr. Ashok Singla, Mr. K.S. Rekhi, Mr. Gaurav Mohunta, Mr. Amit Dhawan, Mr. Sudhir Paruthi For Respondent : Mr. Arun Jain, Sr. Advocate with Mr. Amit JainMr. Sandeep Jain, Mr. Amarjeet Markan, Mr. B.R. MahajanMr. Salil Sagar

Surya Kant, J.

1. This common order shall dispose of Civil Revision Nos.1385 of 2004, 3176, 3470, 3180 of 2006, 5929, 6115, 6625, 6477 of 2007 and 986, 4503 & 6624 of 2008. Though the facts and some of the issues involved in these revision petitions are dis-similar, yet the common issue, namely, the scope and import of Section 13B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the Act), which enables a Non-Resident Indian-landlord to seek eviction of his tenant through summary procedure, is involved in all these cases. For clarity, the facts and issues involved, wherever necessary, have been taken up separately.

2. However, it may be noticed that these revision petitions have been preferred by the tenants against whom the eviction orders have been passed by the Rent Controllers under Section 13B of the Act.

LEGISLATIVE BACKGROUND:

3. Vide the East Punjab Urban Rent Restriction (Amendment) Act No.9 of 2001, the State of Punjab has amended the East Punjab Urban Rent Restriction Act, 1949. The statement of the Objects and Reasons of the Amendment Act No.9 of 2001 acknowledges the representations received by the State Government from various Non-Resident Indians highlighting their plight of return to India after their long stay abroad. It was noticed that the Non-Resident Indians having spent long years of their lives abroad, did not find the

conditions congenial in their own country on their return, either to settle down or to take up any business due to rigid legal provisions of the existing Rent Act and they were unable to recover possession of their residential, scheduled or non-residential building for their own use and occupation. It was in order to mitigate the hardship faced by the NRI-landlords that the State Government brought out Ordinance No. 10 of 2000, promulgated on 27.12.2000, followed by the Amendment Act No.9 of 2001, whereby the provisions like Sections 2(dd), 13B and some modifications in the existing Section 18A of the Act, have been carried out. These provisions have been added/amended with a view to provide summary procedure for eviction of a tenant by his NRI landlord subject to fulfillment of certain conditions.

4. Section 2(dd) of the Act says that:-

2 (dd) Non-resident Indian” means a person of Indian origin, who is either permanently or temporarily settled outside India in either case-

(a) for or on taking up employment outside India; or

(b) for carrying on a business or vocation outside India; or

(c) for any other purpose, in such circumstances, as would indicate his intention to stay outside India for a uncertain period.

Similarly, Section 13B of the Act provides as follows:-

13-B. Right to recover immediate possession of residential building or scheduled building and/or nonresidential building to accrue to Non-resident Indian:- (1) Where an owner is a Non-Resident Indian and returns to Indian and the residential building or scheduled building and/or non-residential building, as the case may be, let out by him or her, is required for his or her use, or for the use of any one ordinarily living with an dependent on him or her, he or she, may apply to the Controller for immediate possession of such building or buildings, as the case may be:

Provided that a right to apply in respect of such a building under this Section, shall be available to only after a period of five years from the date of becoming the owner of such a building and shall be available only once during the life time of such an owner.

(2) Where the owner referred to in sub-section (1) has let out more than one residential building or scheduled building and/or non-resident building, it shall be open to him or her to make an application under that sub-section in respect of only one residential building or one scheduled building and/or one non-residential building, each chosen by him or her.

(3) Where an owner recovers possession of a building under this section, he or she shall not transfer it through sale or any other means or let it out before the expiry of a period of five years from the date of taking possession of the said building, failing which, the evicted tenant may apply to the Controller for an order directing that lie shall be restored the possession of the said building and the Controller shall make an order accordingly.

5. Section 18-A (2) of the Act provides that once an eviction application under Section 13B of the Act is received, the Rent Controller shall issue summons for service on the tenants in the Form specified in Schedule-II, which in turn, requires the tenant to apply for leave to contest the eviction application within 15 days of the service. Sub-Section (3) (a) of Section 18A of the Act prescribes more than one mode to effect service on the tenants simultaneously, whereas, sub-Section (4) explicitly provides that the tenant, on whom the service of summons has been effected, shall have no right to contest the prayer for eviction unless he seeks to contest the application for eviction alongwith an affidavit stating the grounds and obtains leave from the Rent Controller to contest the eviction application. Sub-Section (5) says that leave to contest can be granted to a tenant if the facts disclosed by the tenant in his affidavit “would dis-entitle the specified landlord..... from obtaining an order for the recovery of possession of the residential building or scheduled building and/or non-residential building, as the case may be.....”. Sub-section (6) of Section 18A of the Act further provides that where the leave is granted to the tenant to contest the eviction application, the Rent Controller shall hear the eviction application on day to day basis.

6. The above stated newly added provisions have been considered by the Honble Supreme Court at threadbare in **Baldev Singh Bajwa v. Monish Saini** : 2005(12) SCC 778, the conclusion whereby may be summarized as follows:-

(i) Any person, who himself is of Indian Origin and/or whose parents/grandparents are/were of Indian Origin and who is settled outside India either permanently or temporarily for taking up employment or for carrying on business/vocation would be a Non-Resident Indian;

(ii) a Non-Resident Indian-landlord has a special right to seek immediate possession of the let-out premises if he is its owner for atleast a period of 5 years before his applying to the Rent Controller for possession and that he requires the premises for his own use and occupation and/or for anyone ordinarily living with him and is dependent on him;

(iii) the right under Section 13B of the Act for immediate possession can be availed of only once during the life-time of such an owner/NRI landlord;

(iv) the NRI-landlord has the choice to select one amongst several other residential/non-residential buildings;

(v) it is not necessary for a NRI-landlord to permanently return to India for seeking eviction of the tenant;

(vi) the Courts shall presume that the need of the NRI-landlord is genuine and bona fide, though the tenant is entitled to prove that in fact and in law, the requirement of the NRI-landlord is not genuine;

(vii) a heavy burden would lie on the tenant to prove that the requirement of the NRI-landlord is not genuine and mere assertion on the part of the tenant would not be sufficient to rebut the strong presumption in the landlords favour;

(viii) if the NRI-landlord gets possession under Section 13B of the Act, he can neither transfer it either by sale or by any other mode nor can he let it out for a period of 5 years and in case of any breach, the tenant is entitled to seek restoration of possession:

(ix) after getting the possession, the NRI-landlord should occupy the premises continuously for a period of 3 months.

7. Keeping the plain and unambiguous language of the statute in view and following the interpretation given by the Apex Court in Baldev Singh Bajwas case (supra), to the provisions inserted vide Amendment Act No.9 of 2001, every Rent Controller, while deciding an eviction application under Section 13B of the Act, is obviously required to ascertain that (i) the applicant is a Non-Resident Indian; (ii) he is owner of the subject premises; (iii) his ownership is more than 5 years old as on the date when he applies for eviction; (iv) the applicant-NRI-landlord has pleaded and explained that he needs the subject premises for his own and/or for the use and occupation of anyone ordinarily living with and dependent upon him; (v) such NRI-landlord has not earlier availed the benefit of Section 13B of the Act in respect of any other premises.

8. Similarly, wherever a tenant seeks leave to contest, the Rent Controller would ascertain as to: (i) whether or not such an application accompanying by an affidavit has been moved within 15 days from the date of effecting service upon the tenant as per the Schedule-II; (ii) whether or not the tenant has raised a triable issue duly supported with some cogent material, which if proved, would disentitle the NRI-landlord to seek eviction of the tenant; (iii) the leave to contest cannot be granted on mere asking and the tenant would be under a heavy onus to establish that the landlords eviction application lacks in material particulars and does not fall within the four corners of Section 13B of the Act.

9. With a view to ascertain that there is a triable issue raised by the tenant, the Rent Controller shall be obligated to consider such contention in the light of judicially settled main and ancillary issues, like: (i) a NRI-landlord even if only a co-owner/joint owner in the demises premises, can seek eviction of his tenant under Section 13B of the Act; (ii) ordinarily, the fate of an eviction petition filed earlier under Section 13 of the Act, before Section 13B came into existence, is no ground for not entertaining the eviction application under Section 13B of the Act; (iii) nothing precludes the NRI-landlord to institute parallel proceedings for recovery of the arrears of rent, while also seeking eviction of the tenant under Section 13B of the Act for the reason that every landlord is entitled to be paid the rent till the premises is required by the tenant; (iv) the general principle that the landlord is the best judge of his own requirement and the tenant has no authority to dictate or advise his landlord as to how the later should adjust within the available accommodation or in a particular manner applies to an eviction application under Section 13B of the Act also; (v) the ownership with possession of another accommodation is no bar against a NRI-landlord to invoke his once in a life time right and get one building of his choice vacated under Section 13B of the Act; (vi) contrary to Section-13, the requirement of the NRI-landlord for the demised premises for his own use and occupation, shall be presumed to be genuine and bona fide unless rebutted by the tenant; (vii) even if there are more than one tenants in a single building, the NRI-landlord is entitled them to evict; (viii) the tenant shall have to

apply for leave to contest within 15 days of effecting service on him. No application shall thereafter be entertained and the Rent Controller has no power to condone the delay in filing such an application; (ix) even if the premises was let out by the co-owner or an authorized person by the NRI-landowner, it shall amount to letting out of the premises for and on behalf of such owner only.

10. Counsel for the parties have been heard separately and at some lengths; the records of the Rent Controllers have also been perused and each case is here-in-after dealt with as per its own facts, but by applying the above summarized general principles:-

CIVIL REVISION NO.1385 OF 2004

11. The petitioner-tenant is aggrieved at the order dated 21.2.2004 passed by the Rent Controller, Ludhiana, whereby her application for leave to contest has been dismissed and consequential eviction order under Section 13B of the Act has been passed.

12. Alongwith the eviction petition filed under Section 13B of the Act, the respondent-landlady has placed on record her Passport as well as the Identity Card issued by the NRI Sabha, Punjab, in order to show that she is settled in California (USA). The demised premises which is a part of the residential house, stands transferred in her name from Ajit Singh (her deceased husband) vide an order dated 03.04.1998 passed by the Joint Commissioner. The sale deed by virtue of which the property was transferred in the name of late Ajit Singh has also been placed on record. The facts regarding the respondent being a NRI or an owner of the demised premises for more than 5 years have not been disputed. She has specifically averred that the demised premises is needed for her personal use and occupation as she wants to come back and settle in India and that her son, three daughters and her grand children, who are living in USA, keep on visiting India frequently to meet their close relatives, perform their social obligations and stay in Ludhiana continuously for some months and that the accommodation in her possession is wholly insufficient for their use and occupation.

13. The petitioner-tenant was sought to be served for appearance on 29.05.2002 but as per the report of the Process Server, she refused to receive the summons on 04.05.2002 and again on 28.05.2002. The petitioner did not appear before the Rent Controller on 29.05.2002 nor applied for leave to defend within 15 days. In fact, she moved an application to that effect on 17.12.2002 only. Her application has been dismissed by the Rent Controller after holding that she failed to apply within 15 days, though on merits also, the Rent Controller has observed that the respondent-landlady has made out a clear case within the ambit of Section 13B of the Act.

14. The only ground raised in this revision petition is that the respondent-landlady has meanwhile passed away and Surinder Singh Sidhu, through whom her legal representatives have applied for being brought on record, has no such locus-standi. It is claimed that the eviction petition itself was moved by Surinder Singh Sidhu as an Attorney of Pavittar Kaur-respondent (since deceased) but no such power of attorney executed by the respondent in his favour, has been placed on record.

15. Having heard learned counsel for the parties, I find that the objection raised on behalf of the petitioner-tenant has no factual basis and is unsustainable in law. The application for being impleaded as legal representatives has been moved by none-else then (i) Sukhdarshan Singh Ojha; (ii) Mrs.Baljinder Bandal; (iii) Mrs.Surinder Kaur Toor and (iv) Mrs.Mandhir Leev. All the four applicants are son and daughters of late S.Ajit Singh and the respondent (Pavittar Kaur) was their mother. All the natural legal heirs of the respondent have been brought on record. The petitioners objection that the eviction petition filed through Surinder Singh Sidhu has no power of attorney executed in his favour on record, is also baseless as the respondents have placed on record a typed copy of the said power of attorney dated 28.02.2002 (Annexure A1), whereby the respondent Smt.Pavittar Kaur had appointed Col.Surinder Singh Sidhu (retired) as her attorney to pursue the eviction application.

16. In my considered view, the petitioner-tenant has no locus standi to question the authorization made by the deceased (Pavittar Kaur) in favour of Col.Surinder Singh Sidhu when she herself had verified the eviction application and supported the same with her own affidavit dated 06.03.2002 (Annexure P3). Similarly, once the natural legal heirs of the deceased-respondent have come forward, the controversy sought to be created by the petitioner in respect of a non-issue, having no bearing on the merits of the case, is liable to be rejected.

17. As a result of the above discussion, I do not find any merit in this revision petition which is accordingly dismissed.

C.R.NOS.3176, 3180 AND 3470 OF 2006

18. These three revision petitions have been filed by three different tenants against the same NRI-landlord (Hardish Singh Bhola). The Rent Controller, Nawanshahr vide his impugned order dated 02.05.2006 dismissed the petitioners applications for leave to defend and has passed consequential eviction orders against them.

19. The respondent-NRI-landlord filed three eviction applications under Section 13B of the Act against the petitioners for their eviction from the adjoining shops which are part and parcel of one and the same building situated at Main Road, Banga, District Nawanshahr.

20. The respondent averred that he is a Non-Residential Indian who had migrated to England; he is owner of the demised premises in which three small sized shops were constructed and rented out to the petitioner-tenants; he has decided to settle down in India and start the business of running a Restaurant after demolishing the three shops and constructing a multi-storied new building and thus requires the demised premises for his own use and occupation. The respondent-landlord has attached a copy of his passport as well as copy of NRI Certificate issued by the NRI Sabha, Punjab, to establish that he is a NRI. Besides, satisfying other ingredients, the respondent-landlord also gave an undertaking that he will personally use and occupy the demised premises after reconstructing the same.

21. The petitioner-tenants, on receipt of summons, applied for leave to contest, inter-alia, on the grounds that; (i) the respondent is a permanent resident of United Kingdom and has

no intention to settle down in India; (ii) the respondent can seek eviction of his tenant from one premises only on the ground of personal necessity, whereas, he has filed three eviction petitions; (iii) the respondent is not a specified landlord within the meaning of Section 13B of the Act; (iv) the respondent wants to get the property vacated to sell it at premium; (v) the eviction petition has been filed with mala fide intention; (vi) the petitioner-tenant in Civil Revision No.3180 of 2006 took an additional plea that the demised premises was taken on rent from the father of the respondent in personal capacity, whereas the eviction petition has been filed against the firm namely "M/s.Surjit Engineering Works"; (vii) the respondent is not the sole owner of the demised premises and is co-inherited by him alongwith Charan Kaur and Hardish Singh Bhola, therefore, he cannot avail the benefit of Section 13B of the Act; (viii) the respondent-landlord has nowhere specifically pleaded that he is owner of the demised premises for more than five years before filing the eviction petition.

22. The Rent Controller did not find any substance in the above noted contentions and has refused to grant leave to defend vide the impugned order dated 02.05.2006. with the resultant eviction orders passed against the petitioners.

23. Learned counsel for the petitioner-tenants reiterated the contentions noticed above and argued that the respondent has not specifically pleaded his ownership qua the demised premises for a period of at least 5 years before filing the eviction application, and that the bona fides of the need pleaded by the respondent-landlord is highly questionable. Learned counsel for the petitioner-tenants also argued that the benefit of Section 13B of the Act can be taken by a NRI-landlord in respect of one rented premises only, whereas the respondent has filed three eviction applications against three tenants which are not maintainable.

24. Having heard counsel for the petitioners at some length and on perusal of the records, I do not find any merit in these revision petitions.

25. Adverting to the first contention, the respondent-landlord has specifically averred in the eviction petitions that he is a NRI and specified landlord/owner of the demised premises let out to the petitioner-tenants from the specified different dates. In order to prove his co-ownership, the respondent has placed on record copy of the jamabandi for the years 1997-98 which clearly depicts him as the co-owner of the demised premises for more than 5 years before filing the eviction petition. His NRI status is also beyond doubt as he has not only placed on record the passport issued by the United Kingdom Government, but also the identity card/ certificate issued by the NRI Sabha, Punjab to that effect. Nothing more is required to be pleaded or shown by the respondent to prove his status of a Non-Resident Indian as explained by the Honble Supreme Court in Baldev Singh Bajwas case (supra).

26. The petitioners objections that the respondent is not the sole owner cannot sustain for the reason that a NRI co-owner/joint owner can also file eviction petition under Section 13B of the Act.

27. Similarly, the plea that the respondent-landlord does not require the demised premises for his own use and occupation or that the eviction petition has been filed for mala fide

reasons, is totally baseless as the respondent in para No.3 (i) of the eviction application has specifically averred that he wants to start his own business and develop the building as a big Hotel and Restaurant after reconstructing it into a multi-storied building. There is nothing on record to doubt the capacity or bona fide of the respondent-landlord to utilize the subject property for the aforesaid purpose.

28. Adverting to the plea that the benefit of Section 13B of the Act can be taken in respect of one rented out premises only, I find that the Legislature has consciously used the expression "building" in Section 13B of the Act. A building can comprise more than one rented premises. Once in a life time right has been conferred upon the NRI-landlord to seek eviction of his tenant from the residential/ scheduled or non-residential "building" through summary procedure. It would be de-horse and self-defeating to the legislative intent to hold that irrespective of the size of a premises, a NRI-landlord can seek eviction from the entire building if it is occupied by one tenant only, whereas, if a similarly sized building is rented out in parts to more than one tenants, cannot be got evicted in entirety by its NRI-owner or that he can seek eviction of a part thereof only from one of the tenants. Such an interpretation renders the provision irrational and would lead to absurd and undefendable legal consequences.

29. This very reason appears to have led their Lordships of the Supreme Court in *Badev Singh Bajwas* case (supra) to hold that if a NRI-landlord owns more than one building, it is for him to make a choice of that one building and seek eviction of tenant(s) therefrom under Section 13B of the Act. In my considered view, it would much depend upon the nature of necessity expressed by a NRI-landlord as to whether he requires the entire building for his own use and occupation or only a part thereof? No doubt, that Section 13B of the Act enables him to seek eviction of the tenant(s) from the entire building, however, if the landlord needs only a part of the building, he can restrict his requirement qua that part only.

30. In the case in hand, it is an admitted fact that the three shops adjoin each other and are part of the same building which the respondent-landlord wants to reconstruct and develop into a big hotel and restaurant. He has, therefore, shown and presumptuously established his requirement for the entire building, whether occupied by one tenant or more. For the reasons afore-stated, I do not find any merit in these revision petitions which are accordingly dismissed with no order as to costs.

C.R.NOS.5929 AND 6115 OF 2007

31. These revision petitions have been filed by Dr.Madan Mohan Moudgil and Hari Singh-the two tenants against whom the eviction applications filed by the respondent-NRI landlord-Jaswant Singh Lota under Section 13B of the Act have been allowed by the Rent Controller, Malerkotla vide the impugned orders dated 27.09.2007 and the petitioners have been ordered to be evicted from the ground floor of the demised premises situated at Railway Road within the Municipal Area of Ahmedgarh, District Sangrur.

32. The respondent-landlord averred that the demised premises has been inherited by him

from his father Fateh Singh who died in the year 1990 and that he is a 70 years old non-resident Indian settled in Toronto (Canada). The respondent further averred that he suffers from high blood pressure and heart ailment and whenever he visits India it becomes difficult for him to climb the upper storey where he maintains his residence. He further averred that the accommodation on the first floor is otherwise insufficient for his own stay and that of his relatives who oftenly visit him while he is in India. The respondent, thus, sought eviction of the petitioners to utilize the ground floor of the demised premises for his residence, though let out to the petitioners for non-residential purposes.

33. The Rent Controller vide his order dated 29.09.2006 allowed the petitioners leave to contest the eviction applications. The petitioners filed their respective written statements and besides disputing the relationship of landlord and tenants between the parties, they also questioned the status of the respondent, a Non Resident Indian, as well as his personal need for the demised premises.

34. The status of the respondent as a Non-Resident Indian of Indian origin, however, was conceded by one of the petitioners (Dr.Madan Mohan Moudgil) when appeared as RW1 and admitted that the respondent and his father were earlier permanent residents of India and that the respondent had shifted to Canada more than 20 years back and is now residing there permanently.

35. Similarly, the petitioners could cause no dent on the ownership claim of the respondent as he had admittedly inherited the demised premises from his father who died in the year 1990. The eviction applications were filed in the year 2006, therefore, the respondent was undisputably owner of the demised premises for more than 5 years before filing the eviction applications.

36. The contentious issue between the parties appears to be the plea of personal necessity pleaded by the respondent-NRI-landlord. It is urged on behalf of the petitioners that since the respondent has not entered into the witness box, the testimony of his Special Power of Attorney (Ajit Singh AW1) cannot be relied upon. It is also argued that the respondent has no intention to return to India nor has he actually returned.

37. Having heard learned counsel for the parties at some length, I do not find any merit in the contention noticed above. The Supreme Court has already clarified in Baldev Singh Bajwas case (supra) that it is not necessary for a Non-Resident Indian-landlord to return permanently to India. Even if the respondent-landlord requires the demised premises for his occasional visits to India, that need sufficiently fulfills the requirement of law. Under Section 13B of the Act, the Court shall presume the genuineness and bona fide personal need of the NRI- landlord and a heavy onus lies on the tenant to lead cogent evidence and rebut that strong presumption. Assuming that the Attorney of the respondent-landlord does not come forward or depose, the fact remains that the respondent has specifically pleaded and not controverted by the petitioners to some extent that he is more than 70 years old; he is a patient of high blood pressure and heart ailment; he requires the ground floor of the demised premises as it is risky for him to climb to the first floor of the premises and that the accommodation on the first floor is otherwise insufficient for him and his relatives who

oftenly visit him whenever he is in India. No evidence has been led by the petitioner-tenants to refute the age of the respondent- landlord or that he does not occasionally visit India or has no relatives in India who might visit him whenever he comes to India. Similarly, there is no evidence led by the petitioner-tenants to show that there is any other premises available with the respondent-landlord or that the ground floor of the demised premises cannot be used for the residential purposes. It is pertinent to mention here that after availing 12 opportunities, the petitioner in the first case produced no evidence except his own deposition which is wholly insufficient to discharge the onerous burden created by Section 13B of the Act. The vague and evasive assertions made by the petitioners that the respondent wants to sell the demised premises at a premium, not only lack material support but are otherwise inconsistent with the object behind Sub-Section (3) of Section 13B read with Section 19 of the Act in terms whereof, an evicted tenant can not only seek restoration of his possession if the landlord fails to occupy the demised premises but a defaulting landlord can be prosecuted as well.

38. For the reasons afore-stated, I do not find any merit in these revision petitions which are accordingly dismissed. C.R.Nos.6625 and 6477 of 2007

39. These two revision petitions have been preferred by the tenants against the same NRI-owner in whose favour the Rent Controller, Kharar, has passed the eviction orders dated 05.11.2007 under Section 13B of the Act, directing the petitioner-tenants to vacate the demised premises comprising the ground floor and the rear portion respectively, of the residential H.No.544, Phase-I, S.A.S.Nagar, Mohali.

40. While the ground floor of the demised house was let out to the petitioner in Civil Revision No.6625 of 2007, a two rooms set on the back of the house was rented out to the petitioner in Civil Revision No.6477 of 2007. In her eviction petition filed under Section 13B of the Act, the respondent averred that she is the owner-cum-landlady of the House No.544, Phase-I, S.A.S.Nagar, Mohali, the ground floor and two rooms set in the back yard of which were rented out to the petitioners w.e.f. 01.01.2005 and April, 2004, respectively. The respondent further averred that her family comprises herself, her husband and three grown up children; her sons are about 22 years old whereas daughter is 18 years old and that they are in possession of just one room and a bath room only without any kitchen etc. in the demised premises. The respondent-landlady further averred that she alongwith her family is settled in United Kingdom but they frequently visit India and require the demised premises for their residential purposes as the one room accommodation has fallen short of serving their purpose. The respondent further averred that she has no other residential house in S.A.S.Nagar, Mohali or anywhere else in India, nor she has obtained any eviction order for any such property under Section 13B of the Act.

41. On receipt of notices, both the tenants applied for the grant of leave to defend. Some common pleas taken by them were that (i) the respondent-landlady, in fact, intends to sell the house for a valuable consideration and wants it to be vacated to fetch maximum price; she has already sold the house to one Gian Chand of Mahalpur who deals in sale and purchase of the disputed properties and she has executed a General Power of Attorney in favour of the said Gian Chand; (ii) the respondent-landlady and the said Gian Chand had

earlier thrown away the articles of the petitioner-tenants and caused injuries to them as a result of which FIR No.301 dated 26.10.2005 under Sections 323, 452, 380, 148, 149 and 120-B IPC has been got registered against them and 11 other persons and the matter is pending in the Court; (iii) the respondent-landlady has been threatening to dispossess the petitioner-tenants and the first petitioner had to file a suit for permanent injunction to get an ad-interim injunction; (iv) the tenant in the first revision petition is in occupation of the entire ground floor except one bed room though a smaller area has been shown in the rent note; (v) the landlady is insisting on the paying monthly rent of Rs. 10,000/-; (vi) the tenant in the second petition (Tirlochan Singh) took an additional preliminary objection that the eviction application has not been filed through a legally authorized person as the Power of Attorney dated 18.07.2006 in favour of Rakesh Kumar was executed out of India and has not been embossed in India; (vii) the NRI-landlady has concealed the material facts like registration of a criminal case against her or the injunction suit in which she made a statement that the tenant shall not be dispossessed except in due course of law, and (viii) the respondent-NRI-landlady has also concealed the factum of dismissal of her earlier eviction petitions (Annexures J&K).

42. The Rent Controller, after considering the above noticed objections/ pleas taken by the petitioner-tenants for the grant of leave to contest, dismissed their respective applications and has passed the impugned eviction orders, giving rise to these revision petitions.

43. Both the matters were ordered to be heard together as some of the contentions raised by the petitioners are common, hence these matters are being disposed of together.

44. It is vehemently urged that the petitioners were inducted as tenants in April, 2004 and January, 2005 respectively and the eviction petitions have been filed just after 11/2 years or so which shows that the necessity for her own use and occupation expressed by the respondent-NRI landlady is artificial and an after thought. It is argued that the respondent has not approached the Court with clean hands and her eviction petitions ought to have been dismissed on this score alone as she concealed the factum of dismissal of her earlier eviction petition against the petitioner in the second case. On this very premise, it is claimed that the petition under Section 13B of the Act is not maintainable at all and the second eviction petition amounts to an abuse of process of the Court as held by Honble Delhi High Court in Mohd.Hussain v. Mohd.Mian, 2000 (3) CCC 217 (Del) : 2000(2) RCR (Rent) 483. According to the learned counsel, the second eviction petition is barred by the principle of res-judicata also. Reliance is placed on a decision of this Court in Santokh Singh v. Jaswant Singh & Anr., 2001 HRR 517. It is also convassed that the respondent-landlady has been executing one after the other General Power of Attorneys in favour of different persons, suggesting her inclination towards disposal of the property.

45. I have heard learned counsel for the parties at some length and perused the impugned orders as well as other relevant records.

46. In my considered view, the revision petitions are devoid of any merit. In their applications for leave to contest, the petitioners have not disputed the NRI status of the respondent. They have also not disputed the fact that she is owner of the demised

premises for a period of more than 5 years before filing of the eviction application. Similarly, the composition of the respondents family, comprising her husband and three grown up children is also admitted. It is the specifically pleaded case of the respondent that they frequently visit India and have experienced that the one room accommodation available with them is wholly insufficient. Per se, the necessity pleaded by the respondent-landlady appears to be genuine and bona fide notwithstanding the statutory presumption of genuineness also being in her favour. The petitioners were under a heavy onus to demolish the said presumption, say by placing some clinching material on record regarding either availability of any other accommodation or that the plea of frequent visit to India taken by the respondent-landlady is false or that she has actually entered into an agreement to sell etc. to dispose of the property. Only bald, vague and evasive allegations suggesting the execution of General Power of Attorney by the respondent in favour of one or the other persons, have been levelled with no intention to prove the same. No cognizance of such like allegations can be taken at this stage, especially when Section 13-B (3) read with Section 19 of the Act takes care of the eventuality when a NRI-landlord does not occupy or rent out or dispose of the vacated property.

47. Adverting to the additional plea taken by the 2nd petitioner regarding concealment of dismissal in default of an earlier eviction petition filed by the respondent-landlady, I find from the record that the respondent had earlier filed an eviction petition under Section 13 of the Act (and not under Section 13B) on 15.06.2006 which was primarily meant to recover the arrears of rent. I say so for the reason that in the said eviction petition, the petitioner in the second case (Tirlochan Singh) was alleged to be in arrears of rent since May, 2004 (inducted as tenant in April, 2004), except for the months of April, June and December, 2004. After the tenant had tendered the arrears of rent. The said eviction petition was dismissed in default by the Rent Controller, Kharar vide order dated 24.05.2006, which reads as follows:-

Case called several times but none has appeared on behalf of petitioner neither in person nor through counsel. It is already 4.00 P.M. As such, Rent application is dismissed in default. File be consigned to the record room

48. The dismissal of the above mentioned eviction petition filed by the respondent-landlady in default, in my view, has no material bearing at all on the merits of the eviction petitions filed by her under Section 13B of the Act which confers a special right on the Non-Resident Indian-owner to seek eviction of his tenant summarily and statutorily with presumes that the need expressed by such NRI-landlord is genuine and bonafide. In the eviction petition under Section 13 of the Act, neither any issue as to whether or not the demised premises was required by the respondent for her personal use and occupation was framed nor any finding returned. Even the dismissal of an eviction petition on merits, filed under Section 13 of the Act, can have no bearing on the merits of the subsequent petition filed under Section 13B of the Act. The non-disclosure of an irrelevant fact, therefore, can cause no prejudice to the respondent-landlady.

49. For the reasons afore-stated, I do not find any merit in these revision petitions and dismiss the same. C.R.No.986 of 2008

50. This revision petition is preferred by the tenants against whom an order of eviction dated 17.01.2008 has been passed by the Rent Controller, Jalandhar, in an eviction petition filed under Section 13B of the Act.

51. The case of the respondent-landlords is that the residential H.No.NB-248, Pooran Bhawan, Lakshmi Pura, Jalandhar City, was earlier owned by Hans Raj, husband of respondent No. 1 and father of respondent Nos.2 to 6, who passed away on 23.02.1981. The respondents succeeded to the house by inheritance and have become owner-cum-landlords of the same. The respondents averred that their predecessor-in-interest late Sh.Hans Raj as well as they themselves, are Non-Resident Indians living in England. While respondent No.1 has already returned to India for the purpose of permanently settling here, the other respondents also want and intend to settle and reside in India with their mother, namely, respondent No.1. The major portion of the house is let out to the petitioners whereas the remaining portion is also under the [tenancy](#) of other tenants against whom too eviction applications under Section 13B of the Act have been filed.

52. The respondents specifically averred that respondent No.1 has already returned to India and is presently residing with her relatives at H.No. 169/2, New Rajinder Nagar (Gagan Apartments), Jalandhar City. It was further averred that the respondents have no other residential, scheduled or non-residential building in their possession in the urban area of Jalandhar, and the house in dispute was purchased by their predecessor-in-interest late Hans Raj vide registered sale deed dated 04.03.1963. The respondents have categorically averred that they require the demised premises for their own use and occupation as the entire family want to return and settle in India.

53. The petitioner-tenants applied and were granted leave to contest the eviction application vide an order dated 23.05.2002 passed by the Rent Controller. Thereafter, they filed the written statement taking various preliminary objections like, non-maintainability of the eviction petition; lack of locus-standi to file the eviction petition and that the respondents are not Non-Resident Indians. On merits, even the ownership of the respondents was denied. It was also disputed that the respondents are legal heirs of deceased Hans Raj. The petitioners also disputed that the respondent No.1 has returned or the others have any intention to return India and settle in Jalandhar as they are British subjects and hold British passports. It was also alleged that the eviction application under Section 13B of the Act was not maintainable as the respondents have already availed the benefit of said provision against two other, tenants. It was claimed that different tenants were in separate and distinct buildings.

54. In the light of denial of everything by the petitioners, the Rent Controller framed the following issues:-

- (1) Whether the petitioners are owners/landlords of the demised premises? OPP
- (2) Whether the petitioner No.1 has returned to India for settling in the demised premises? OPP
- (3) Whether the petitioners are NRI? OPP.

(4) Whether the petitioners required the demised premises for their personal use and occupation? OPP

(5) Whether the petitioners are entitled to ejectment as prayed for? OPP

(6) Whether the petition is not maintainable? OPP

(7) Whether the site plan is incorrect? OPP.

(8) Relief.

Both the parties led their respective evidence, on consideration whereof, the Rent Controller has answered most of the issues in favour of the respondent-landlords, culminating into the impugned eviction order.

55. The same contentions have been replicated by learned counsel for the petitioners before this Court as well. It is quite unfortunate that the petitioners went to the extent of disputing the respondents as legal heirs of late Hans Raj or the owners of the house in dispute and also denied the relationship of landlord and tenants. The first respondent, an old lady, therefore, brought on record a copy of the sale deed dated 04.03.1963 (Ex.P1) whereby the subject house was purchased by her deceased-husband. She examined one Paramjit Singh-an official witness to prove on record copy of the sale deed (Ex.PW2/A) and also brought on record the death certificate of her husband (Ex.P2). As against it, the petitioners relied upon the oral testimony of Smt.Swaran Beri (RW3) who, during her cross-examination candidly admitted that the respondents are owners of the property and she has been paying rent to them. Another witness examined by the petitioner-tenants, namely Surinder Kumar Mehta (RW2) also admitted this fact. In the light of the admitted facts, the Rent Controller concluded and rightly so that Hans Raj having passed away on 23.02.1981 (death certificate Ex.P2), the respondents being his natural legal heirs, became the owners-cum-landlords of the house in dispute for a period of more than 5 years before the eviction petition under Section 13B of the Act was filed. It appears that the petitioners deny the ownership of the respondents or the relationship of landlord and tenants between the parties with a view to prolong the proceedings.

56. Similarly, the issue as to whether or not the respondents are Non-Resident Indians stood conclusively settled from the attested copies of their passports (Ex.P5 to P10). Likewise, there was hardly any room to doubt the respondents personal necessity for the demised premises in as much as respondent No. 1 has categorically deposed before the Rent Controller that she has permanently returned to India and the house is needed by her other family members for their personal use and occupation. Respondent No. 1 has also led evidence to prove that after coming to India, she is residing with her relatives and there is no other residential building owned by them in India.

57. In order to dislodge the respondents claim that the demised premises is required for their own use and occupation, the petitioners have strongly relied upon two eviction orders that the respondents have already got passed under Section 13B of the Act against two other tenants, to contend that the respondents have already availed the benefit of Section

13B of the Act, therefore, the present eviction petition was not maintainable and there would be sufficient accommodation available after it is vacated by those two tenants. The Rent Controller has repelled the said contention after holding that one of the petitioner-tenants, namely, Davinder Beri (RW4) has admitted in his cross-examination that there are three tenants in the same house No.NB-248, Pooran Bhawan, Lakshmi Pura, Jalandhar City and that the property in their occupation is also a part of the same building. The Rent Controller has held that the respondent-landlords are entitled to get the entire building vacated under Section 13B of the Act, even if let out in parts to different tenants.

58. Reiterating the same contention, learned counsel for the petitioners further added that the question as to whether or not a NRI-landlord can seek eviction of more than one tenants under Section 13B of the Act though pertaining to non-residential buildings, is pending consideration before the Honble Supreme Court.

59. After giving my thoughtful consideration to the contention, I am of the considered opinion that owing to the size of his family or expected regular visitors, a NRI-landlord can seek and is entitled to get one residential building vacated under Section 13B of the Act irrespective of the fact as to whether such entire building has been let out to one tenant or in parts to more than one tenants. The facts of each case, however, would determine such an eventuality. The contention raised on behalf of the petitioners, therefore, cuts no much ice in their favour. The respondents have successfully proved that they require the entire house for their personal use and occupation. Suffice it to say that a landlord is the best judge of his requirement. While scanning the need of a NRI-landlord, the Court can legitimately take notice of the standard of living, comforts and amenities being enjoyed by such landlord or his family for years in abroad. There is, thus, no merit in the last contention also.

60. It cannot be believed that the petitioners did not know that the respondents were the widow and children of late Hans Raj who was the registered and admitted owner of the House in dispute. Yet the petitioners chose to deny the ownership as well as the relationship of landlord and tenants between the parties, which were totally false pleas to their knowledge.

The revision petition is accordingly dismissed with costs of Rs.5000/-.

C.R.NO.4503 OF 2008

61. This revision petition is directed by the tenant whose application for leave to contest moved in an eviction application filed by the respondents under Section 13B of the Act, has been dismissed by the Rent Controller, Jalandhar and consequential eviction order dated 05.05.2008 has been passed.

62. The respondent-landlords filed the above stated eviction application seeking ejectment of the petitioner from the demised premises comprising Shop No.2 which is a part of the property known as Sahota Building bearing No.4-A, situated near Skylark Hotel, Model Town Road, Jalandhar. The respondents averred that the property in question was purchased by Ranbir Singh Sahota (respondent No.1) and Major Randhir Singh vide sale deed dated

22.07.1968, registered on 23.07.1968. A portion of the property was let out to the petitioner-tenant in the year 1977.

63. Major Randhir Singh, co-owner of respondent No. 1, died on 17.01.1976 and his wife Smt.Daljit Kaur also passed away on 03.03.2002. Respondent No.2 (co-petitioner alongwith respondent No. 1 in the eviction petition) is the son of late Major Randhir Singh. The other surviving legal heirs of Major Randhir Singh have also given their Power of Attorneys in favour of respondent No.1 as mentioned in detail in para No.3 of the eviction application and copies thereof have also been attached.

64. Explaining their NRI status, the respondents have averred in para Nos.2 & 5 of the eviction application that respondent No. 1 is 71 years old and has retired from Railway Department of United Kingdom; he went to United Kingdom in November, 1956 and has come to India to settle permanently. He has been issued passport by the U.K. of Great Britain and Northern Ireland, a notarized copy whereof has been appended with the eviction petition. Respondent No.1 has specifically averred himself to be of Indian origin. Similarly, respondent No.2 is 61 years of age and is settled in Canada. It is averred that he has wound up his business in Canada and wants to come back in India in order to settle here permanently. A notarized copy of the Canadian passport issued to respondent No.2 has also been appended with the eviction application. The certified copy of the sale deed registered on 23.07.1968 whereby the subject property was purchased by respondent No.1 and the father of respondent No.2, has also been placed on record. The Special Power of Attorneys executed by other surviving legal heirs of Major Randhir Singh (other than respondent No.2) have also been placed on record besides the site-plan of the property in dispute, depicting the portion in occupation of the petitioner-tenant.

65. On receipt of the notice, the petitioner-tenant moved two applications, i.e., one to adjourn the proceedings sine-die as the matter regarding interpretation of the expression building is pending consideration before the Honble Supreme Court and the second for grant of leave to contest, inter-alia, on the grounds that:- (i) there is no relationship of landlord and tenant between the parties as the demised premises was let out by Mrs.Pritpal Kaur Sahota, Smt.Daljit Kaur and Smt.Sukhdesh Kaur Sahota who issued the rent receipts till 1992; (ii) the rent had been paid regularly after December, 1992 also, but the landladies did not issue the receipts; (iii) the eviction petition is bad for non-joinder of necessary parties as brother of the petitioner, namely, R.S.Dhal is also a co-tenant but has not been impleaded as a party; (iv) the property taken on rent by the petitioner bears No.4-A, Sahota Building, near Income Tax Office, Jalandhar City and not the property whose Municipal Number has been referred to by the respondents; (v) the respondents are neither owners nor landlords of the property; (vi) the sale deed dated 22/ 23.07.1968 is also denied; (vii) the status of the respondents as NRIs is also disputed. It is alleged that respondent No.1 "is living in India since 1992 and has never gone to U.K.". It is also denied that the respondents are of Indian origin or settled in U.K./Canada; (viii) the authorization given by the other legal heirs of Major Randhir Singh is also disputed as none of them is owner of the premises; (ix) the property cannot be demolished to construct a Shopping Mall as claimed by the respondents because it is situated in the residential area, and (x) the petition under Section 13B of the Act is not maintainable.

66. The Rent Controller vide its impugned order dated 05.05.2008 rejected the above noticed objections one by one and has declined to grant leave to contest, giving rise to this revision petition.

67. I have heard learned counsel for the parties at some length and perused the impugned orders as well as the original record which has been summoned.

68. In my considered view, there is absolutely no merit in this revision petition and the same is liable to be dismissed.

69. Keeping the definition of Non-Resident Indian as contained in Section 2 (dd) of the Act and interpreted by the Apex Court in Baldev Singh Bajwas case (supra), there can indeed be no doubt that both the respondents are Non-Resident Indians. While one of them holds the passport issued by the United Kingdom, the others passport is issued by the Canadian Government. Their specific plea that they are of Indian origin has not been even controverted by the petitioner.

70. As regards the ownership, the respondents have placed on record a copy of the sale deed dated 22/23.07.1968 whereby the subject building was purchased by respondent No.1 (50% share) and father of respondent No.2 (remaining 50% share). It appears that the petitioner instead of admitting the true and correct facts which are so apparent, has opted for blatant denial of everything. While denying that respondent No.2 or his sisters are the legal heirs of Major Randhir Singh, the petitioner has miserably failed to name even a single legal heir of Major Randhir Singh, other than respondent No.2 or his sisters who are fully described in para No.3 of the eviction application. As against it, the respondents have placed on record the affidavits/power of attorney/authorization letters issued by the sisters of respondent No.2 categorically authorizing respondent No.1 to pursue the eviction application on their behalf as well.

71. In the absence of any contrary evidence whatsoever, the Rent Controller has rightly accepted respondent No.2 and his sisters as the legal heirs and consequential owners of the demised premises to the extent of the share owned by their deceased father Major Randhir Singh. Had there been slightest doubt in his mind, the petitioner would have produced the copy of the Ownership Register maintained by the Municipal Corporation. In fact, in his affidavit in support of the application for leave to defend, the petitioner himself has relied upon the rent receipts issued by (i) Mrs. Amrit Pal Kaur w/o.Brig.D.S.Sandhu; (ii) Mrs.Pritpal Kaur wd/ o.late Air Commander N.P.S.Sahota, both of whom being daughters and legal heirs of later Major Randhir Singh, have given their Power of Attorney/Authorization letters in favour of respondent No. 1 for initiation of the present eviction proceedings. It, thus, stands proved that respondent Nos.1 & 2 are the owners/co-owners of the demised premises for a period of more than 5 years before the eviction application was filed. Otherwise also, the eviction petitioner under Section 13B of the Act could be maintained by respondent No. 1 alone in his capacity as a co-owner of the demised premises on the strength of the sale deed dated 22/23.07.1968.

72. The objection of non-joinder of necessary parties raised by the petitioner-tenant,

namely, non-impleadment of his brother who is alleged to be a co-tenant, is wholly misconceived and being contrary to record, cannot sustain. There is not even an iota of material to suggest that the petitioners brother was also inducted as a co-tenant in the demised premises. He himself has not come forward to claim such tenancy rights.

73. As regards the respondents need for the demised premises for their own use and occupation, it is their categorical case that while respondent No.1 has already returned to India to permanently settle down and respondent No.2 has also wound up his business in Canada as he too wants to settle down in India. Both of them have decided to re-construct the entire building as a big shopping centre. Keeping in view the location of the demised premises which appears to be abutting the main road of city Jalandhar and the fact that the respondents have throughout their lives earned in Pounds and Dollars, there is no reason whatsoever to doubt their need or capacity, especially when Section 13B of the Act obligates the Courts to presume the need of a Non-Resident-Indian-landlord to be genuine and bona fide.

74. No other meaningful argument could be advanced on behalf of the petitioner-tenant.

75. I, therefore, do not find any merit in this revision petition which is accordingly dismissed with costs of Rs.2500/-.

C.R.NO.6624 OF 2008

76. This revision petition is directed by a tenant whose application for leave to contest has been dismissed and consequential eviction order dated 29.08.2008 has been passed by the Rent Controller, Jalandhar in an eviction petition filed by the respondent-landlord under Section 13B of the Act, for vacation of the first floor of residential H.No.100, Street No.9, Central Town, Jalandhar City.

77. The respondent sought eviction of the petitioner, inter-alia, averring that he is a Non-Resident Indian born and brought up in erstwhile India and settled in United Kingdom and holds a British passport though earlier had an Indian passport. The respondent is a British subject and is of Indian origin and fulfills all the ingredients of a Non-Resident Indian, as defined under Section 2 (dd) of the Act. The demised House No. 100 is built up on a plot measuring 10 marlas (about 250 square yards) in Street No.9, Central Town, Jalandhar City and was purchased by the father of the respondent, namely, Amar Singh Matharu, vide sale deed dated 30.11.1960 registered on 09.12.1960. The father of the respondent passed away intestate on 05.07.1971 at Jalandhar leaving behind his widow (Smt.Basant Kaur), five sons and two daughters. However, Smt.Basant Kaur, one son Kesar Singh and one daughter Joginder Kaur have also passed away. The respondent is a Class-I legal heir of late Amar Singh Matharu and has inherited the demised property as a co-owner since 25.07.1971. The respondent further averred that the petitioner was inducted as a tenant by him on the first floor comprising three rooms, one kitchen and one bath room, whereas another portion of equal size on the ground floor was let out to another tenant (Jaswant Singh) against whom also the respondent has initiated separate eviction proceedings. The respondent specifically pleaded that he requires the tenanted premises for his bona fide personal use and

occupation as the small portion in his occupation is wholly insufficient to cater to his needs and that of his co-owners. The respondent has five married daughters and other co-owners of the property have also their families settled abroad. The demised premises is an old house and the respondent and his co-owners want to demolish and reconstruct a modern house to suit their requirements. The respondent is a 64 years old retiree who is not keeping good health and suffering from dislocation of right shoulder. The weather in U.K. is not conducive to his health and he wants to settle down in India permanently as he is qualified in repairing the scientific instruments and would pursue the said vocation in India. The respondent also averred that he does not own or occupy any other residential or commercial property throughout India nor has earlier got vacated any such property.

78. On receipt of the notice, the petitioner-tenant applied for leave to contest, inter-alia, on the grounds that (i) the petition is not maintainable; (ii) the respondent has no locus-standi to file the eviction application as he is not the owner of the property; (iii) the respondent is not a Non-Resident Indian; (iv) the respondent is permanently settled abroad with family and has no intention to return to India; (v) the respondent has concealed the material facts regarding property owned by him and his family; (vi) there is sufficient accommodation in possession of the respondent comprising two rooms and one store which are lying locked for several years; (vii) the house in question is in possession of different tenants and each tenancy constitutes an independent unit, whereas only one eviction application under Section 13B of the Act is maintainable.

79. The respondent-landlord contested the above-stated application and reiterated that he is a co-owner of the house since 25.07.1971 when his father died and wants to return to India permanently, especially for health reasons.

80. The Rent Controller vide his impugned order dated 29.8.2008 has held that no triable issue has been raised by the petitioner-tenant, hence leave to contest cannot be granted. The resultant eviction order has also been passed.

81. In order to examine the case of the respondent-landlord within the well defined parameters, as noticed earlier, it may be seen that the respondent is a British subject and has been issued passport by the Government of United Kingdom. The respondents father as well as he himself having been born and brought up in erstwhile India, the respondent is undoubtedly a Non-Resident Indian within the meaning of Section. 2(dd) of the Act.

82. Similarly, the petitioner has nowhere disputed that the subject house was not purchased by late Amar Singh Matharu vide sale deed dated 30.11.1960, a copy of which has been placed on record by the respondent. The death certificate of late Amar Singh Matharu has also been brought on record to prove that he died on 25.07.1971 at Jalandhar. The petitioner tenant has not disputed the fact that the respondent is one of the legal heirs of late Amar Singh Matharu. The respondent is, therefore, undisputably a co-owner of the subject house. It is well settled that an eviction petition under Section 13B of the Act is maintainable even at the behest of a co-owner-Non-Resident Indian also.

83. Adverting to the bona fide personal necessity of the respondent, it is well known that a

landlord is the best judge of his requirements. The petitioner has nowhere disputed that the respondent is not the father of five married daughters or that his other co-owners do not have large families. The respondent has categorically averred that he wants to settle down in India permanently and wants to start some vocation. That being so, the respondent and his co-owners definitely require the demised premises may be to demolish and re-construct it for their comfortable stay.

84. The plea that each tenancy amounts to an independent unit or that the respondent can seek eviction under Section 13B of the Act in respect of one unit only, is factually misleading and legally misconceived. The demised premises is not a big residential house. Admittedly, the residential house is one compact building and bears one municipal number. Even if it has been let out in parts to different tenants, it constitutes one single residential house/building for the purpose of Section 13-B (1) of the Act. As the respondent-landlord has decided to return and settle down in India with his family, the genuineness of his need or of his co-owners for the entire house stands proved beyond any pale of doubt.

85. There is, thus, no merit in this revision petition which is accordingly dismissed but without any order as to costs.

Lakhwinder Kumar and Other v. Pavitter Kaur and Other