



2026:DHC:349



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: December 03, 2025

%

Pronounced on: January 15, 2026

+ **RC.REV. 130/2025, CM APPL. 170/2018, CM APPL. 45589/2018**
CM APPL. 36866/2019

**OM PRAKASH (SINCE DEAD) THROUGH LRS
AND ANR.**

.....Petitioners

Through: Ms. Archana Midha, Advocate with
petitioner in person

Versus

RAJBIR KAUR & ANR

.....Respondents

Through: Mr. Yajur Bhalla and Mr. Ashutosh
Tiwari, Advocates.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

1. The respondents/ landlords¹ instituted an Eviction Petition under *Section 13* of the East Punjab Urban Restriction Rent Act, 1949 read with East Punjab Urban Restriction Rent Act (Extension to Chandigarh) Act, 1974 before the learned Rent Controller, Chandigarh seeking eviction of the petitioners/ tenants² from *back half of half portion of 2nd Floor of S.C.O. No.15, Sector 17 E, Chandigarh i.e. One-fourth portion of the 2nd floor*³. Thereafter, pursuant to order dated 20.06.2006 passed by the Hon'ble Supreme Court in Transfer Petition no.356 of 2003, the said

¹ Hereinafter referred to as "*respondents*"

² Hereinafter referred to as "*petitioners*"

³ Hereinafter referred to as "*subject premises*"



Eviction Petition was transferred from learned Rent Controller, Chandigarh to the learned SCJ cum RC Central, Tis Hazari Courts, Delhi⁴.

2. It was the case of the respondents before the learned RC that they were/ are the owners/ landlords of S.C.O. No.15, Sector 17 E, Chandigarh, and had inducted petitioner no.1 as the tenant in the subject premises at a monthly rent of Rs.250/- payable in advance for the purposes of running an *electronics business* under the name and style “M.P. Electronics”. The respondents sought eviction of the petitioners on the following grounds:

- (i) The petitioner no.1 was in arrears of rent w.e.f. 01.01.1993 and have not paid the same despite repeated requests; and
- (ii) The petitioner no.1 had unlawfully sublet the subject premises to petitioner no.2, who was in actual possession thereof, without written consent of the respondents; and
- (iii) The petitioners have also changed the user of the subject premises without consent and were using it for running tuition classes under the name and style “M.P. College”.

3. In response, petitioners filed their written statement, *inter alia*, contending that:

- (i) The petitioners were not in any arrears of rent; and
- (ii) There was no *landlord tenant relationship* between the respondent no.2. and the petitioners. Respondent no.1, Mrs. Rajbir Kaur, was the actual landlord/ owner of the subject premises and since she had neither filed any affidavit in support of the rent petition nor signed the power of attorney in favour of respondent no.2, and

⁴ Hereinafter referred to as “*learned RC*”



that even the GPA holder had not signed the petition, the eviction petition was defective; and

(iii) The subject premises was never taken on rent for any specific purpose and the petitioners were in liberty to continue any business. The subject premises was always used for running an educational institution under the name “M.P. College”; and

(iv) Though a Local Commissioner was appointed, however, his report was never placed in the case file.

4. Upon appreciation of the pleadings and evidence(s) led by the respective parties, the learned RC *vide* judgment dated 16.12.2011 concluded that the respondent no.2 was a co-owner of the subject premises and that *landlord tenant relationship* existed *inter se* the parties, as also that the user of the subject premises had been changed from running an electronic business under the name “M.P. Electronics” to operating an educational institution under the name “M.P. College”. The learned RC also found that the petitioner no.1 was not himself carrying on any business in the subject premises, rather the same was being used by his father, petitioner no.2, and as such the subject premises had been unlawfully sublet to petitioner no.2 without the consent of the respondents. In view of the aforesaid findings, the learned RC allowed the respondents’ Eviction Petition and passed eviction order in the favour of respondents.

5. Aggrieved thereby, the petitioners preferred an appeal before the learned Rent Control Tribunal, Tis Hazari Courts, Delhi⁵ wherein it was the case of the petitioners that:

⁵ Hereinafter referred to as “*learned Tribunal*”



- (i) There was no evidence on record to prove that respondent no.2 was the owner of the subject premises; and
 - (ii) The purpose of the tenancy was not proved by the landlord, and neither the respondent no.1 nor her GPA was examined; and
 - (iii) As per evidence led, the subject premises was not let out in the presence of respondent no.2 and as such, no weightage can be given to his testimony; and
 - (iv) Since the inception of the tenancy, petitioner no.1 had been running an educational institution under the name and style of “M.P. College” and that at no point of time was any business of “M.P. Electronics” carried from the subject premises; and
 - (v) There was no sub-letting of the subject premises by the petitioner no.1 and the learned RC wrongly relied upon the report of the Local Commissioner, ignoring the evidence of Clerk of the Court that the said report was never filed.
6. In response, the respondents contended as under:
- (i) It stood duly proven that the respondent no.2 was the co-owner and landlord of the subject premises through the deposition of Sandeep Sharma (**PW4**) as well as the letter dated 23.09.1962 (**Ex.PW4/A**); and
 - (ii) The Local Commissioner (**PW3**) in his testimony deposed that during his visit of the subject premises, he found petitioner no.2 present therein, whereas the petitioner no.1 was not found at the site; and
 - (iii) The Petitioner no.1 had not provided his qualification before the learned RC to establish his competence to run the College; and



(iv) No documents were produced before the learned RC to show that the college was being run from 1972; and

(v) Both petitioner nos.1 and 2 had expired and that none of the legal heirs of petitioner no.1 were pursuing the appeal and the said appeal was being prosecuted by the LR's of the deceased sub-tenant.

7. The learned Tribunal, after hearing the parties as also after going through the records *vide* impugned order dated 07.09.2017⁶, dismissed the petitioners' appeal and affirmed the findings returned by the learned RC.

8. Feeling aggrieved by the impugned order dated 07.09.2017, the petitioners initially filed the petition under *Article 227* of the Constitution of India invoking the supervisory jurisdiction of this Court. However, with consent of both the parties, this Court, *vide* order dated 27.03.2025, converted the said petition into a Revision Petition under *Section 15(5)* of the East Punjab Urban Restriction Rent Act, 1949.

9. At the outset, Ms. Archana Midha, learned counsel for the petitioners submitted that while adjudicating the petitioners' appeal, the learned Tribunal instead of following the provisions of appeal envisaged under *Section 15(1)(b)* of the East Punjab Urban Restriction Rent Act, 1949 has erroneously applied *Section 38* of the Delhi Rent Control Act, 1958 which restricts the jurisdiction of the Rent Tribunal solely to the question of law, thereby excluding consideration on factual aspect, which the learned Tribunal was otherwise duty-bound to examine.

10. On merits, amongst the various grounds urged in the present petition, the learned counsel, by reiterating, submitted that there was no evidence on

⁶ Hereinafter referred to as "*impugned order*"



record to show that the respondent no.2 was the owner of the subject premises and even otherwise, the subject premises was not let out in his presence. The learned counsel further submitted that one of the landlords, being the respondent no.1, was not examined as a witness. The learned counsel then submitted that since the inception of the tenancy, the petitioners were running the College under the name and style of “M.P. College” from the subject premises and there was no change of user/ sub-letting thereof.

11. *Per contra*, Mr. Yajur Bhalla, learned counsel for respondents, submitted that on a complete reading of the impugned order dated 07.09.2017, it is evident that the impugned order of the learned Tribunal was in effect passed under *Section 15(1)(b)* of the East Punjab Urban Restriction Rent Act, 1949 and not under Delhi Rent Control Act, 1958 and the learned Tribunal had merely wrongly mentioned the title of the order as “*Order on Appeal under S. 38 of Delhi Rent Act*”. The learned counsel further submitted that the learned Tribunal had reconsidered and deliberated upon the factual matrix in entirety and no point of law was involved. The learned counsel then submitted that the petitioners in the present Revision Petition are merely reagitating the very same contentions which have already been duly considered and conclusively rejected by both the learned Rent Controller as well as the learned Tribunal.

12. Heard learned counsel for the parties, as also gone through the documents and pleadings on record.

13. At the outset, the contention of the learned counsel for the petitioners that the learned Tribunal erred in restricting its jurisdiction only to questions of law by following *Section 38* of the Delhi Rent Control Act,



1958, though seem attractive at first blush, however, a perusal of the impugned order reveals that the learned Tribunal has in fact duly appreciated the facts and evidence on record without limiting itself only to the question of law. As such, merely because the impugned order bears an incorrect statutory provision in its title, the same cannot dilute the substance of the adjudication.

14. Since there is no challenge to the impugned order by any of the LR's of the petitioner no.1 (*original tenant*), and it is only Ms. Krishna Sharma⁷, one of the legal heir of the petitioner no.2 (*alleged sub-tenant*), who has filed and is contesting the present Revision Petition, the same, in itself, is a ground for negating the contentions raised by Ms. Sharma. Reference in this connection can be made to the decision of this Court in ***Ms. Farheen Israil & Anr. vs. Ghulam Rasool Wani & Ors.***⁸, SLP preferred whereagainst being SLP(C) No.35625/2025, has been dismissed as withdrawn by the Hon'ble Supreme Court *vide* order dated 11.12.2025.

15. On merits, the records reveal that one Mr. Sandeep Sharma (**PW4**) from the office of the Estate Officer deposed that the respondent no.2 was added as a co-sharer *vide* letter dated 23.09.1962 (**Ex.PW4/A**), which was sufficient for the learned RC as well as the learned Tribunal to conclude that respondent no.2 was indeed the owner-landlord of the subject premises. Thus, the Eviction Petition was rightly filed by him along with his mother, respondent no.1, seeking eviction of the petitioners from the subject premises.

16. With regards to the issue for *change of user* and *sub-letting*, the

⁷ Hereinafter referred to as "**Ms. Sharma**"

⁸ RC. REV. 39/2024



respondent no.2 (**PW1**) categorically deposed that the petitioner no.1 was inducted as a tenant in the subject premises for running *electronic business* and had commenced operations under the name and style of “M.P. Electronics”, and it was later that the petitioner no.2 took over the said premises and began exclusively running a College under the name and style of “M.P. College” from the subject premises since the petitioner no.1 had sub-let the same to him. The aforesaid was further fortified by the deposition of Mr. Arun Bassi, the Local Commissioner (**PW3**) who deposed that he found the petitioner no.2 sitting in the main office cabin of “M.P. College” with large number of books and prospectus of various universities lying on the table and a board of “M.P. College” affixed outside the main office, as also found a big sticker of “CEC M.P. Electronics” on the entrance door. The Local Commissioner also deposed that on a specific query from the said petitioner no.2, he was told that petitioner no.1 was not there. Further, one Mr. Amarjit Singh (**PW2**) also deposed that not only did he find the said petitioner no.2 in exclusive possession of the subject premises but also that there were a number of students therein. Moreover, as per records, there was/ is nothing material borne out from the cross-examination of either of the aforesaid witnesses who deposed for and on behalf of the landlords.

17. *Interestingly*, although it was the case of the petitioners that the petitioner no.1 was actually running the College from the subject premises and petitioner no.2 was not in possession thereof, there was never an iota of evidence led by either of them *qua* that in any form whatsoever. So much so, few of the rent receipts filed by the petitioners did not even bear the name of “M.P. College”, and the few of such rent receipts bearing its name



were having signature(s) of a third party (*attorney of Respondent no.1*), who, for reasons best known, was never produced and/ or summoned as a witness in the eviction proceedings.

18. It is intriguing as to how and when the petitioner no.2 came into possession of the subject premises; and if the respondents had inducted the petitioner no.1 for running *electronic business* and who commenced operations under the name and style of “M.P. Electronics”, on what basis was the petitioner no.2 operating the College therefrom under the name and style of “M.P. College”; and what was/ is the connection *inter se* the two.

19. The non-examination/ non-production of respondent no.1 as one of the witnesses by the landlords-respondents, whence the respondents were free to produce and/ or summon such witnesses who were sufficiently vital for proving their case in the eviction proceedings, more so, whence there were other material evidences on record, and the respondent no.1 was/ is *admittedly* the mother of respondent no.2, cannot be said to be fatal for the respondents proving their case seeking eviction of the petitioners and is immaterial and hardly of any relevance. As such, that the said respondent no.1 was not produced as a witness cannot be a factor worthy for this Court to go into the same while exercising revisional jurisdiction.

20. As such, in view of the aforesaid discussion, though Ms. Sharma has made her best efforts to (once again) make out a case before this Court, even whence the earlier two round of proceedings *inter se* the parties has already concluded against her, the present challenge is nothing but a belated attempt to create a façade by taking refuge in assertions not borne out from the record and by seeking to draw undue advantage from the mere passage of time. Moreover, Ms. Sharma, being a legal heir of the sub-



tenant and a rank outsider to the original *lis*, has no legally sustainable defence to stall the eviction order passed by the learned Rent Controller and affirmed by the learned Tribunal in favour of the respondents.

21. In view of the aforesaid analysis and findings, finding no reason for interfering with the well-reasoned and detailed impugned order dated 07.09.2017 passed by the learned Tribunal, the present revision petition is dismissed.

22. Accordingly, the petitioners are directed to handover vacant, peaceful and physical possession of the subject premises being *back half of half portion of 2nd Floor of S.C.O. No.15, Sector 17 E, Chandigarh i.e. One-fourth portion of the 2nd floor* to the respondents in compliance of the judgment dated 16.12.2011 passed by the learned RC.

23. The present petition, alongwith the pending applications, is disposed of in terms of the above, with no order as to costs.

SAURABH BANERJEE, J.

JANUARY 15, 2026/ab/GA