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IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH

CR-219-2025 (O&M)

Date of Decision: 26.02.2026

Manohar Lal & another Petitioners

Versus

Amrinder Singh Poonia & another Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MRS. JUSTICE RAMESH KUMARI**

Present: Mr. Divanshu Jain, Advocate, for the petitioners.
Mr. Saurav Bhatia, Advocate, for the respondents.

GURVINDER SINGH GILL, J.

1. Finding divergence in views taken by different Single Benches of this Court on the issue of validity of a composite order passed by the Rent Controller dismissing the application filed by petitioners (tenants) seeking 'leave to contest' as well as directing their eviction, the matter has been referred to Larger Bench and is before this Court.
2. A few facts, necessary to notice for answering the reference are that respondent No.1 (landlord), being NRI, filed an eviction petition under provisions of Section 24(3) of the Punjab Rent Act, 1995. Pursuant to issuance of notice, the petitioners (tenants) moved an application in terms of provisions of section 38(7)(b) seeking 'leave to contest' the said petition. The Rent Controller, SAS Nagar (Mohali), by way of a composite order dated 16.10.2023, which is impugned herein, while declining the



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application seeking ‘leave to contest’ the petition, ordered for eviction of the tenants. The tenants (petitioners herein) assailed the aforesaid order before the Appellate Authority, SAS Nagar (Mohali), but the appeal was also dismissed which is under challenge in the instant revision petition.

3. When the matter came up for hearing before a Single Bench of this Court, an issue was raised by the petitioners (tenants) that the Rent Controller by passing a composite order of dismissal of their application seeking ‘leave to contest’ and directing their eviction simultaneously had deprived them of an opportunity to seek review of order dated 16.10.2023 and that such denial seriously prejudiced them in exercise of their statutory rights.

4. Since the learned counsel for the petitioners (tenants) as well as learned counsel representing respondent (landlord) relied upon various judgments of this Court on the issue, the Single Bench noticing the conflict in judicial pronouncements referred the matter to a larger Bench. The questions posed in the referral order dated 02.09.2025 are extracted herein-under:

(i) *Whether non-grant of ten days’ period to file review against dismissal of application for leave to defend as envisaged under Section 38(7)(e) of The Punjab Rent Act, 1995, renders the eviction order nullity.*

Or

(ii) *As to whether such requirement is directory and substantial compliance with the provisions of Section 38 would be sufficient if the composite order of dismissal of application for leave to defend and eviction order is passed and time is granted to handover the vacant possession to the petitioner.*

5. While the tenancies in the State of Punjab were earlier regulated by East Punjab Urban Rent Restriction Act, 1949 (hereinafter to be referred as ‘the 1949 Act’), the said Act stood repealed by the Punjab Rent Act, 1995 (hereinafter to be referred as ‘the 1995 Act’). Although, in the present case the petitioners had been inducted as tenant before the 1995 Act came into



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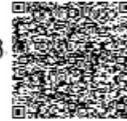
force w.e.f. 30.11.2013, but by virtue of savings clause in section 75(2) of 1995 Act and also provisions of Section 24(3) itself, any eviction petition by NRI landlord is to be instituted under the new Act.

6. The relevant provisions under the 1949 Act and 1995 Act, pertaining to the remedies available to a tenant upon dismissal of his application seeking “leave to contest” eviction petition filed by NRI landlord are juxtaposed herein-under to check out the changes brought about by the new Act:

Remedy against order of Rent Controller declining leave to contest :

EAST PUNJAB URBAN RENT Restriction Act 1949	PUNJAB RENT ACT, 1995
<p>18A. Special procedure for disposal of applications under section 13-A or 13-B –</p> <p style="text-align: center;">x x x</p> <p>(there is no provision for review in section 18A)</p>	<p>38. Procedure to be followed by Rent Authority –</p> <p style="text-align: center;">xx xx xx</p> <p>(7)(e) - Where the leave to contest under clause (c) is denied to the tenant he may file an application for review before the Rent Authority within ten days of such denial and the Rent Authority shall endeavour to dispose of such application within seven days of its filing.</p>
<p>18-A (8) <u>No appeal or second appeal shall lie</u> against an order for the recovery of possession of any [residential building or scheduled building and/or non residential building] [Substituted vide Punjab Act No. 9 of 2001.] made by the Controller in accordance with the procedure specified in this Section :Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.</p>	<p>50(5) - An appeal <u>shall lie</u> to the Appellate Authority from every order or decision of Rent Authority made under this Act both on question of law and facts:</p> <p><i>Provided that no appeal shall lie against an order or decision of Rent Authority made under section 21 or section 33 of this Act</i></p>

7. A conspicuous difference is easily discernable upon perusal of the relevant provisions under the two Acts with regard to filing of an application for review before the Rent Controller inasmuch as while no specific provision for review existed therein under the 1949 Act, but Section 38(7)(e) of the 1995 Act specifically provides for the same. Thus, in case the Rent



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Controller, while declining tenant's application for 'leave to contest', orders his ejectment simultaneously, the same would amount to depriving the tenant of an opportunity to seek review of such order particularly when under the new Act, specific provisions for review have been made therein under Section 38(7)(e). The validity of such composite orders came to be considered by various Single Benches of this Court, but it appears that there is some divergence of opinion in the matter. The judgments pressed into service before the Single Bench by both the sides are briefly referred to herein-under:

Judgements in favour of Petitioners (TENANT):

1	<p><u>Krishan Kumar & others Vs. Kamla Devi, 2016 (1) RCR (Rent) 525:</u></p> <p>A Single Bench of this Court held that - '<i>once it is held that the 1995 Act is applicable, it would be incumbent upon the Rent Controller to first pass an order on the application for leave to defend and it is only after affording time to the aggrieved party to file a review application, that a separate final order should be passed.</i>'</p> <p>Further, the decision of Full Bench of this Court in <u>Anwar Ali v. Gian Kaur, 2011(2) RCR (Rent), 604</u>, was held to be inapplicable having been delivered on an analysis of the 1949 Act, when there was no provision for filing a review against the order declining an application for 'leave to contest'.</p>
2	<p><u>Prabhveer Singh Vs. Simardeep Singh (CR-2117 of 2022) :</u></p> <p>A Single Bench of this Court, upon finding that eviction order had been passed before expiry of the period of 10 days provided for review of the order declining leave to contest, the matter was remanded back to the Court of Rent Controller to enable the tenant to exercise his right of review.</p>
3	<p><u>Madan Lal Vs. Salwinder Singh (CR-2117-2022) :</u></p> <p>It has been held by this Court that once there is specific provision under the 1995 Act providing opportunity to the tenant to file an application for review of the order declining leave to contest passed by the Rent Authority, then passing of a composite order depriving the tenant of such an opportunity amounts to denial of his right.</p>



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Judgement in favour of Respondent (LANDLORD) :

1	<p><u>Har minder Singh @ Billu @ Harwinder Singh Vs. Sukhbir Singh Sidhu @ Sukhvir Singh, 2024(1) RCR(Rent)92 :</u></p> <p>A contrary view has been taken by the Single Bench to the effect that the Rent Controller having passed a detailed order denying leave to contest to the tenant and having found merit in the case, then under such circumstances, <i>‘asking him to review the order within 10 days of its passing would be nothing, but an empty formality’</i> unless something substantial had taken place in favour of the tenant in the interregnum adversely affecting the case of the landlord.</p>
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8. While learned counsel for the appearing for the petitioners (tenants) vehemently argued that the rights of the petitioners to seek review stand seriously prejudiced by way of passing a composite order, learned counsel representing respondent (landlord) submitted that a detailed order declining the ‘leave to defend’ having been passed alongwith an order of ejection, the petitioners (tenants) even if held to have been deprived of right to review could effectively exercise their right of appeal in terms of Section 50 of the 1995 Act and they in fact did exercise such right and preferred an appeal before the Appellate Authority, which also came to be dismissed. Learned counsel for respondent (landlord) further submitted that given the fact that order of eviction passed under Section 24 has now been made appealable under the 1995 Act, whereas no such provision was there under the 1949 Act, the petitioners (tenants) cannot be said to have been prejudiced in any manner.
9. We have considered the aforesaid rival submissions and have also gone through the judgments of Single Benches on the issue, as have been referred to above.



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10. The legislature in its wisdom provided for special provisions under both the Acts for ejectment of NRI landlords, wherein the provisions are, in a way, made stringent and time bound for the purpose of ensuring that a NRI landlord is able to get his premises vacated expeditiously. However, there is conspicuous change in the provisions pertaining to remedies available to a tenant inasmuch as while under the 1949 Act, there was no specific provision for filing any appeal or review against an order declining ‘leave to defend’, a specific provision has been incorporated for review of such order under the 1995 Act. The relevant Section 38(7)(e) of the 1995 Act is reproduced herein-under:

“38(7) xx xx xx

(e) Where the leave to contest under clause (c) is denied to the tenant he may file an application for review before the Rent Authority within ten days of such denial and the Rent Authority shall endeavour to dispose of such application within seven days of its filing.”

11. We find that once a specific provision for review of an order stands incorporated, the same has to be given effect to in letter and spirit. In case, the Rent Controller while declining an application seeking ‘leave to defend’ moved by the tenant, passes an order of ejectment on the same very day or by the same very composite order, the right as afforded under the new Act i.e. 1995 Act, for review of such order would virtually stand defeated.
12. Although the provisions of 1995 Act do not specifically mandate in so many words that the Rent Controller is obliged to adjourn the matter for at least 10 days after dismissing the application seeking ‘leave to contest’ so as to afford an opportunity to the tenant to exercise his right of review, but



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such an obligation has to be read into the provisions of Section 38(7)(e) of the 1995 Act, lest the provision for seeking review of order declining leave to contest would be rendered otiose. Any order of ejectment having been passed while divesting the tenant of such right to seek review, would have to be termed as an order passed in contravention of the provisions of the Act and would be required to be set aside. We are, thus, unable to subscribe to the contrary view taken by the Single Bench of this Court in **Harminster Singh @ Billu's case** (supra) that provision for filing review within 10 days of passing a detailed order declining leave to contest - *'would be nothing but an empty formality unless something had happened in the meanwhile favourable to the tenant and adversely affecting the case of the petitioner/landlord'*. On the other hand, in **Krishan Kumar's case** (supra) and in **Madan Lal's case** (supra), the provisions of section 38(7)(e) of 1995 Act have been interpreted in the right spirit bearing in mind the object sought to be achieved therein for providing opportunity to tenant to seek 'review' of order declining leave to contest.

13. Consequently, the questions posed in the referral order dated 02.09.2025 passed by Single Bench are answered accordingly to the effect that a composite order passed declining an application seeking 'leave to defend' and directing ejectment, in proceedings where the 1995 Act is applicable, would be an order defeating the provisions of section 38(7)(e) of the 1995 Act and an order in nullity to the extent it directs ejectment of tenant.
14. Having held so, the impugned composite order wherein eviction has been ordered straightway, depriving the tenant of his right to seek review of



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order declining leave cannot sustain to such extent. As such, the following order/directions are issued:

- (i) The impugned order dated 16.10.2023, to the extent it directs the tenant to hand over vacant possession of premises to landlord is set aside to such extent.
- (ii) The matter is, remanded back to the Rent Controller, SAS Nagar (Mohali) so as to enable the petitioners (tenants) to exercise their right of review against order dated 16.10.2023 so far as the same pertains to declining the application seeking 'leave to contest'.
- (iii) The parties shall appear before the Rent Controller, SAS Nagar (Mohali) on 12.03.2026 who shall afford a period of atleast 10 days thereafter to the petitioners (tenants) to move an appropriate application seeking review of order dated 16.10.2023.
- (iv) In case, such an application seeking review is filed, the same shall be disposed of within the time-frame prescribed under the Act. The matter shall proceed further thereafter as per provisions of the Act.
- (v) Unless there are extremely compelling and unavoidable circumstances, the matter be not adjourned as it is already more than 3 years ever since the landlord moved an application for ejection of the tenants. The Rent Controller to ensure that the parties do not resort to dilatory tactics.

15. The revision petition stands disposed of accordingly.

(GURVINDER SINGH GILL)
JUDGE

26.02.2026

Vimal

(RAMESH KUMARI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No