

## Manvinder Singh Vs Harjeet Kaur Gill

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Feb. 10, 2011

**Acts Referred:** East Punjab Urban Rent Restriction Act, 1949 "Section 13B, 18A  
Representation of the People (Amendment) Act, 2010 "Section 2  
Representation of the People Act, 1950 "Section 20A

**Citation:** (2011) 162 PLR 542 : (2011) 3 RCR(Civil) 302

**Hon'ble Judges:** Rakesh Kumar Jain, J

**Bench:** Single Bench

**Final Decision:** Dismissed

### Judgement

Rakesh Kumar Jain, J.

The question involved in this revision petition is as to "whether a person of Indian origin, who acquires the citizenship of another country, ceases to be a Non Resident Indian".

2. The tenant has challenged the order of eviction dated 10.06.2010 before this Court. Though it was not appealable, yet he filed an appeal before

the learned Appellate Authority which was dismissed on the ground of non-maintainability on 30.11.2010.

3. The landlord filed a petition u/s 13-B of the East Punjab Urban Rent Restriction Act, 1949 [for short "the Act"] in order to seek eviction of the

Petitioner/tenant from the ground and first floors of the showroom SCF Old No. 132/6 (New No. 684), Kesho Ram Complex Ekta Market,

Burail, U.T. Chandigarh on the ground that it is required for use and occupation of her son.

4. The tenant filed an application u/s 18-A of the Act which was dismissed on 10.06.2010. He challenged the said order before this Court,

however, on the same day i.e. 10.06.2010, the Rent Controller passed the order of eviction which was initially assailed by way of appeal by the

tenant and is now being challenged before this Court in the present revision petition. The sole grievance of the tenant as projected in this case is

that since the landlord has obtained citizenship of the United States of America [for short "USA"] as she has got a passport w.e.f. 24.04.2007 to

23.04.2012, therefore, she is ceased to be a NRI. To support his argument, learned Counsel for the Petitioner/tenant has referred to Section 20A

of the Representation of People Act, 1950 [for short "the Act of 1950"], which has come into being by virtue of Section 2 of the Representation of

People (Amendment) Act, 2010. It is argued that once the landlord has become a citizen of another country, she has lost the status of NRI and is

not entitled to file eviction petition in terms of Section 13-B of the Act. On the other hand, learned Counsel for the Respondent has submitted that

NRI is defined in Section 2(dd) of the Act which does talk of citizenship of a person of Indian origin.

5. I have heard both the learned Counsel for the parties and perused the record with their able assistance.

6. The sole argument of the Petitioner is based upon Section 20A of the Act of 1950 and in order to appreciate his submission, Section 20A of the

Act of 1950 needs to be reproduced which reads as under:

20A.(1) Notwithstanding anything contained in this Act, every citizen of India,-

(a) whose name is not included in the electoral roll;

(b) who has not acquired the citizenship of any other country; and

(c) who is absenting from his place of ordinary residence in India owing to his employment, education, or otherwise outside India (whether

temporarily or not), shall be entitled to have his name registered in the electoral roll in the constituency in which his place of residence in India as

mentioned in his passport is located.

(2) The time within which the name of persons referred to in Sub-section (1) shall be registered in the electoral roll and the manner and procedure

for registering of a person in the electoral roll under Sub-section (1) shall be such as may be prescribed.

(3) Every person registered under this section shall, if otherwise eligible to exercise his franchise, be allowed to vote at an election in the

constituency.

7. A close look of this provision would show that it deals with the right of an Indian who is absenting from the place of his ordinary residence in

India owing to his employment, education, or otherwise living outside India to have his name registered in the electoral roll in the constituency in

which his place of residence in India as mentioned in his passport is located or if his name is already included in the electoral roll or he has not

acquired the citizenship of any other country. This provision has no bearing on the definition of Non Resident Indian which is specifically defined in

Section 2(dd) of the Act and it reads as under:

[(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;]

8. According to the aforesaid definition, a person of Indian origin who, for the purpose of taking up employment, business or any other purpose,

permanently or temporarily settled outside India is a NRI. The Legislature has not consciously added any exception in this provision to say that a

person of Indian origin who obtains citizenship of another country would cease to be a Non Resident Indian, therefore, the provisions of Section

20A of the Act of 1950 is of no help to the Petitioner.

9. Learned Counsel for the Petitioner has also argued that the landlord has filed eviction petition immediately after letting it out which proves his

greed and not the need. In this regard, learned Counsel appearing for the Respondent, who is on caveat, has submitted that although the premises

was in fact let out in the year 2000, but still there is no bar u/s 13-B of the Act to seek eviction immediately after it has been let out. He also

submits that this argument was not even raised before the learned Rent Controller.

10. I find force in the argument of the learned Counsel for the landlord and as such this submission of the tenant is found to be of no consequence.

Hence, in view of the aforesaid discussion, I do not find any merit in the present revision petition and the same is hereby dismissed, however,

without any order as to costs.