

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Reserved on: 02.01.2025
Pronounced on: 21.02.2025

CR 55/2013

- 1(i). Mohit Mahajan, age 34 years,
S/o Late Vijay Kumar Mahajan
R/o 256, Rampura Gandhi Nagar, Jammu.
- 1(ii). Veena Mahajan, age 57 years
Wife of Late Vijay Kumar Mahajan
R/o 256, Rampura Gandhi Nagar, Jammu.
2. Vidya Devi, age 81 years
w/o late Chet Ram
R/o 256 Rampura Gandhi Nagar, Jammu.
3. Neelam Devi, age 58 years
W/o Sham Lal
R/o 256 Rampura Gandhi Nagar, Jammu.
4. Vinod Mahajan, age 55 years
S/o Late Chet Ram
R/o 256 Rampura Gandhi Nagar, Jammu.

... Petitioners/Appellant(s)

Through: Mr. Ankush Manhas, Advocate

V e r s u s

1. Sham Dass Gupta
S/o Nand Ram Gupta
R/o 256 Rampura Gandhi Nagar, Jammu.
2. Upender Mahajan
S/o Late Chet Ram
R/o 256 Rampura Gandhi Nagar, Jammu.

... Respondent(s)

Through: Mr. Aditya Gupta, Advocate, with Abhishek Wazir &
Mr. Munish Sharma, Advocate s

CR 42/2013

Rajesh Gupta,
S/o Sham Dass Gupta
R/o 256 Rampura Gandhi Nagar, Jammu.

... Petitioners/Appellant(s)

Through: Mr. Aditya Gupta, Advocate, with Abhishek Wazir and
and Mr. Munish Sharma, Advocates

1. Vidya Devi, w/o late Chet Ram
2. Neelam Devi, age 58 years, W/o Sham Lal
3. Upender Mahajan S/o Late Chet Ram
4. Vijay Kumar Mahajan S/o Late Chet Ram (dead)
5. Vinod Mahajan S/o Late Chet Ram
All R/o 256 Rampura Gandhi Nagar, Jammu.

... Respondent(s)

Through: Mr. Ankush Manhas, Advocate.

CORAM:

HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE

J U D G M E N T

1. The issues involved in the instant revision petitions are interconnected to each other, as such, are being taken up together for disposal at this stage with the consent of the appearing counsel for the parties.

Facts:

- One Sham Dass Gupta, original petitioner in CR 42/2013, (hereinafter referred as “the landlord”) filed a suit for eviction against one Chet Ram, the father of original petitioner 1 in Civil Revision 55/2013 (hereinafter referred as “the tenant”) in respect of a shop situated at Kanak Mandi, Jammu, under the tenancy of said Chet Ram, before the court of first Additional Munsiff, Jammu (Since both the original parties in the suit i.e. the landlord and the tenant have expired and their legal heirs have been bought on record, as such, for the sake of convenience they shall now be referred as landlords and tenants hereafter).
- The aforesaid suit, however, came to be dismissed in terms of judgment and decree dated 31.03.1992, whereafter the said judgment and decree came to be appealed against by the landlords before the court of Principal District Judge, Jammu, which appeal came to be allowed and the judgment and decree dated 31.03.1992 came to be reversed vide judgment and order dated 30.07.1993 and the suit consequently decreed, aggrieved whereof, the tenants preferred a civil second appeal before this

court wherein the judgment and decree passed by the appellate court dated 30.07.1993 came to be set aside and suit dismissed, whereupon the landlords filed a Special Leave Petition (SLP) before the Supreme Court which SLP came to be allowed and the suit again came to be decreed on 15.04.2010 in favour of the landlords, however, upon a review petition filed by the tenants before the Apex Court, the decree came to be modified on 05.10.2010 providing that the tenants be evicted by the landlords for the purpose of building and rebuilding of the premises and that the tenants thereafter shall be entitled to the benefit of re-entry under section 13 of the J&K Houses and Shops of Rent Control Act of 1966 (hereinafter referred as the Act of 1966), whereafter upon the execution of the said decree, the landlords took over the possession of the shop in question on 25.05.2010 from the tenants for the purpose of building and rebuilding.

- An application came to be filed by the tenants under Section 13 of the Act of 1966 for restoration of possession of the shop after having been built and rebuilt by the landlords before the Rent Controller, Jammu (hereinafter referred as “the Controller”) on 29.12.2010 which application after being contested by the landlords came to be decided on 17.12.2011 by the Controller and while allowing the same directed the landlords to handover the possession of the shop in question to the tenants within a period of two months from the date of the order while providing further that the tenants shall pay rent to the landlords on the

prevalent market rate, to be settled between the parties and that the patchwork, if any, required to be carried out for the purpose of making the shop functional shall be done by the tenants at their own costs which shall be adjusted later towards the rent payable by the tenants to the landlords.

- The landlords aggrieved of the said order of the Controller dated 17.12.2011, filed an appeal before the court of Additional District Judge, Jammu on 16.01.2012 (for short the appellate court), which appeal came to be decided by the appellate court on 04.03.2013, and while allowing the said appeal, the appellate court set aside the order of the Controller and remanded the matter back to the Controller for passing fresh orders after giving opportunity to both the parties to lead evidence with regard to their case, in that, the appellate court opined that the order of the Controller is self-contradictory. The said order dated 04.03.2013 is impugned in both the revision petitions before this court, one filed by the landlords and the other one by the tenants.
- While the tenant has challenged the impugned order dated 04.03.2013 in the revision petition 55/2013 on the premise that the same is against the law and facts of the case inasmuch as has been passed on misappreciation of facts as also misinterpretation of section 13 of the Act of 1966, the landlords, had maintained the revision petition 42/2013, essentially challenging yet again the order of the Controller without spelling out the real grounds of challenge against the orders of the appellate court dated

04.03.2013. The said grounds of challenge urged by the landlords being relevant hereinabove are in extenso reproduced hereunder:

That the learned Rent Controller, Jammu, did not properly appreciate either the facts and circumstances of the case or law on the point and passed order directing the restoration of the shop possession whereof was handed over to the petitioner under the orders of the Apex Court. Such an order was passed under total misconception and misinterpretation of the provisions of the J&K Houses & Shops Rent Control Act, 1966. The petitioner aggrieved of the order of the learned Rent Controller, Jammu, challenged the legality & validity of the same inter alia on the following grounds.

- i. *That a perusal of the application filed by the respondents will show that it was utterly misconceived. The application was purportedly filed under section 13 of the J&K Houses & Shops Rent Control Act, 1966 without appreciating that section 13 of the said Act was not at all attracted. The crux of the application of the respondents is contained in paragraph 4 of their application. Paragraph 4 of the application of the respondents reads as under:*

"That the respondent was required to complete rebuilding within the period prescribed and offer the possession to the applicants herein as required under section 13 of the Houses & Shops Rent Control Act."

- ii. *That as submitted above, the petitioner filed his objections and submitted that the application of the respondents was misconceived. A perusal of section 13 of the J&K Houses & Shops Rent Control Act, 1966 will show that section 13 of the Act gets attracted only if a landlord after getting possession of the premises fails to commence the building & rebuilding within the period of six months from the date of delivery of possession to him. Section 13 of J&K Houses & Shops Rent Control Act, 1966 is reproduced as under for the convenience of this Hon'ble Court.*

"13. When a tenant is entitled to restoration of possession and compensation

- (1) *Where the landlord recovers possession of any house from the tenant by virtue of a decree secured because of clause 2[(h)] of the proviso to sub-section (1) of 3(section 11 or because of section II-A] and the building or re-building of the house or shop is not commenced within six months, or the house or shop is not occupied by the landlord or by the person for whose benefit the house or shop is held within two months of the date of vacation of the house or shop by such tenant, or the house or shop, having been so occupied is re-let within six months of the date of such occupation to any person other than such tenant without the permission of the Controller obtained in the prescribed manner, the Controller may, on the application of such tenant made within nine months of his vacating the house or shop, and giving the landlord an opportunity of being heard, by order*

direct the landlord to put such tenant in possession of the house or shop or to pay him such compensation as may be fixed by the Controller, or both:

Provided that the Controller may, on the application of the landlord, extend the period within which the building or re-building of the house or shop is to be commenced, by two months at a time and twelve months in all.

- (2) *Where the landlord obtains a decree for ejectment because of clause I[(h)] of the proviso to sub-section (1) of section 11 and one of the principal reasons for passing such a decree is the expected public benefit of the proposed project of building or re-building by extending accommodation but the actual building or re-building deviates materially from the said project and fails substantially to provide the expected extension of accommodation, the Controller may, on the application of the previous tenant, and after giving the landlord opportunity of being heard, levy a fine on the landlord, which may extend to rupees one thousand and may in addition, order the land-lord to pay such compensation to the previous tenant as may be fixed by the Controller.*
- (3) *Where the landlord obtains a decree for ejectment in terms of clause (h) of sub-section (1) of section 11 and the tenant is ejected on the ground that the house or shop is required by him for building or rebuilding, the tenant thereof shall have.... firstright to tenancy.*

Provided that the tenant shall pay the rent at market rates notwithstanding anything contained in section 8."

- iii. *That the respondents were under misconception that section 13 of the J&K Houses & Shops Rent Control Act, 1966 requires a landlord to complete building & rebuilding within the period of six months from the date of getting possession of the shop. A perusal of the aforesaid section will show that it only requires commencement of building & rebuilding within the aforesaid period. From the pleadings of the parties, the following facts are clear.*

a. Admittedly the possession of the shop in question was handed over to the petitioner on 25.5.2010.

b. The application was filed by the respondents in December 2010. In the application itself it was stated that when the application was filed first & second floors of the structure of the building had been completed and lentil had been placed but the completion of building was still in process.

- iv. *That as submitted above section 13 of the J&K Houses & Shops Rent Control Act, 1966 reproduced hereinabove important portion of which has been highlighted clearly provides that if a landlord does not commence building & rebuilding within the period of six months, he is required to return the possession of the suit shop to the tenant or pay such*

compensation as may be fixed by the Rent Controller. The argument of the petitioner was three fold:

- a. That the petitioner had commenced the construction within the period of six months and the application was not maintainable;
- b. That otherwise also section 13 of the Houses & Shops Rent Control Act, 1966 did not get attracted in as much as, section 13 of the Act provided that it was only if the building is relet, then the erstwhile tenant has prior right of tenancy. If the premises are not at all rented out and retained by the landlord himself, then the tenant does not have any right at all.
- c. That the provisions of section 13 of the J&K Houses & Shops Rent Control Act, 1966 otherwise also are not mandatory. A perusal of the section 13 of the Act itself shows that it was not obligatory on the part of the learned Rent Controller, Jammu, to direct the return of possession of the shop. He could direct the payment of such compensation to the erstwhile tenant as he may fix in lieu of non-return of the possession of the shop. The application of the respondents was, therefore, utterly misconceived and was not maintainable.
- d. That even otherwise a perusal of sub section 3 of section 13 of the Houses & Shops Rent Control Act, 1966 important part of which has been highlighted hereinabove shows that if section 13 of the Act gets attracted, then the tenant shall have 'first right of tenancy'. The legislature by using the term "first" has clearly indicated that the legislature has directed first prior right of tenancy if the suit shop is rented out after vacation. However, in case the landlord does not decide to rent out the premises then section 13 of the Houses & Shops Rent Control Act, 1966 did not get attracted. All these aspects of the matter were not appreciated by the learned Rent Controller, Jammu.
- v. That the learned Rent Controller, Jammu totally ignored the arguments advanced by the petitioner and utterly misinterpreted the provisions of section 13 of the J&K Houses & Shops Rent Control Act, 1966. The application of the respondents was, therefore, utterly misconceived and deserved dismissal.
- vi. That the order of the learned Rent Controller, Jammu is perverse within the meaning of the provisions of law in as much as it is incapable of execution. A perusal of the order passed by the learned Rent Controller, Jammu will show that it directed the parties to sit among themselves and settle the market rate of rent. It did not realize that the parties have been litigating for last thirty years and a court cannot direct for any mechanism in the event of disagreement. The courts have neither provided any mechanism nor law, in as much as, law does not permit a court to pass such an order.

- vii. *That on these grounds, the appeal was filed by the petitioner before the learned Court below. The aforesaid grounds were addressed before the learned Court below and the judgment of this Hon'ble Court was cited where it was clearly held by this Hon'ble Court that no direction can be passed to a landlord to complete the rebuilding within any specified period. The section. requires only commencement of rebuilding and not any time limit for the completion of construction.*
- viii. *That an important development took place during the pendency of appeal before the learned Court below. J&K Houses & Shops Rent Control Act, 1966 was repealed and it was replaced by 2012 Act which contained statutory provision that all the pending appeals shall automatically stand transferred after the expiry of specified period. In other words, after the expiry of specified period, the learned Court below did not have any jurisdiction to hear the case.*
- ix. *That the learned Court below despite repealing Act insisted upon hearing the case and passed the impugned judgment. The impugned judgment is without jurisdiction also.*
- x. *That the learned Court below committed an error in not following the judgment of this Hon'ble Court which held that no specified period can be specified directing the landlord to complete the building.*
- xi. *That it was not obligatory for the learned Court below to return the possession of the premises to the tenant. If the landlord rents out the premises then of course the erstwhile tenant has prior right of tenancy. In the present case, the landlord chooses not to rent out the premises and chooses to do the business himself in the premises in question. Section 13 of J&K Houses & Shops Rent Control Act, 1966 therefore, does not get attracted.*
- xii. *That the learned Court below did not appreciate that the provisions of section 13 of J&K Houses & Shops Rent Control Act, 1966 are not mandatory but obligatory. Instead of returning the possession to the erstwhile tenant, it was open for the learned Court below to direct the payment of such compensation as he thinks fit.*

Heard learned counsel for the parties and perused the record.

2. Before proceeding further in the matter, it would be pertinent to refer hereunder to the following provisions of the Act of 1966, being relevant and germane to the controversy:

11. Protection of a tenant against eviction.—(1) Notwithstanding anything to the contrary in any other Act or law, no order of decree for the recovery of possession of any house or shop shall be made by any Court in favour of the landlord against a tenant, including a tenant whose lease has expired:

Provided that nothing in this sub-section shall apply to any suit for decree for such recovery of possession—

(h) where the house or shop is reasonably required by the landlord either for purposes of building or re-building, or for his own occupation or for the occupation of any person for whose benefit the house or shop is held:

Provided that all sub-tenants in the house or shop are made parties to the suit and allowed opportunity of contesting claim to decree for ejectment.

13. When a tenant is entitled to restoration of possession and compensation.—

(1) Where the landlord recovers possession of any house from the tenant by virtue of a decree secured because of clause i[(h)] of the proviso to sub-section (1) of 2 [section 11 on because of section 11-A] and the building or re-building of the house or shop is not commenced within six months, or the house or shop is not occupied by the landlord or by the person for whose benefit the house or shop is held within two months of the date of vacation of the house or shop by such tenant, or the house or shop, having been so occupied is re-let within six months of the date of such occupation to any person other than such tenant without the permission of the Controller obtained in the prescribed manner, the Controller may, on the application of such tenant made within nine months of his vacating the house or shop, and giving the landlord an opportunity of being heard, by order direct the landlord to put such tenant in possession of the house or shop or to pay him such compensation as may be fixed by the Controller, or both:

Provided that the Controller may, on the application of the landlord, extend the period within which the building or re-building of the house or shop is to be commenced, by two months at the time and twelve months in all

(2) Where the landlord obtains a decree for ejectment because of clause 3[(h)]of the provision to sub-section (1) of section 11 and one of the principal reasons for passing such a decree is the expected public benefit of the proposed project of building or re-building by extending accommodation but the actual building or rebuilding deviates materially from the said project and fails substantially to provide the expected extension of accommodation, the Controller may, on the application of the previous tenant, and after giving the landlord opportunity of being heard, levy a fine on the landlord, which may extend to rupees one thousand and may, in addition, order the landlord to pay such compensation to the previous tenant as may be fixed by the Controller.

(3) Where the landlord obtains a decree for ejectment in terms of clause (h) of subsection (1) of section 11 and the tenant is ejected on the ground that the house or shop is required by him for building or rebuilding, the tenant thereof shall have first right to tenancy:

Provided that the tenant shall pay the rent at market rates notwithstanding anything contained in section 8.)

3. Keeping in mind the aforesaid provision and coming back to the case in hand it is an admitted fact that the final eviction decree

came to be passed on 05.10.2010 by the Apex Court in the review petition arising out of civil appeal no. 3599 of 2007 in favour of the landlords and against the tenant on the premise and ground of building and rebuilding of the premises by the landlords under Section 11(1)(h) of the Act of 1966, with all consequences.

4. Perusal of the record reveals that admittedly the tenants maintained an application in terms of section 13 (3) of the Act of 1966, before the Controller on 29.12.2010, on the premise that the landlord having completed the construction of the shop in question are bound to restore the possession of the shop to them, the tenants, as they, the tenants, are ready to pay the rent of the shop to the landlords at the prevalent market rate.
5. Record also tends to show that the landlords, in opposition to the said application, stated in the objections filed thereto that they, the landlords, commenced the construction in question and raised it up to third floor and that the tenants have no right to re-occupy the shop upon its completion as they, the landlords, are not going to let out the same, but are going to keep it with themselves for their personal use.
6. It is significant to mention here that during the pendency of the instant revision petitions before this court, a Commissioner was appointed by this court on 15.03.2016 in order to ascertain as to whether the construction in question is raised or to what extent is completed, as also as to whether any portion of the said construction has been let out to any party for conducting any

business by the landlord, and also as to whether any business is actually being conducted therein the construction and details thereof, as the appearing counsel for the parties, i.e., of the landlords and the tenants had joined an issue with regard to completion of the construction.

Record reveals that the said Commissioner conducted spot inspection of the premises in presence of the parties as also their respective advocates and reported that the shop in question has been reconstructed on RCC pillars and the roof has also been lintelled and above it construction of two more floors has been raised which two floors are not fully complete and that one staircase has been raised from the ground floor, i.e., from the shop in question with a gate which opens on right side of the lane for entry to the said first and the second floors and that the plaster on the walls of the shop has been done and that no business was found being carried on at the time of inspection as the shop was found locked and upon being opened by the landlord the same was found empty with scattered bricks and boulders in it, however, on enquiring from nearby shopkeepers about the shop in question, two shopkeepers namely Ashu Gupta proprietor of Durga Sales, Kanak Mandi being adjacent to the shop in question and Mr. Akhil Gupta proprietor Mool Chand Krishan Lal , Kanalk Mandi, being opposite to the shop in question revealed that one Ashok Gupta was running business of general items in the shop about 10 to 15 days back and

thereafter it remained closed from the last fortnight and that the shop stands constructed two to three years back.

7. Perusal of the record available on the file also tends to show that none of the parties herein opposed the said report or else filed any objections thereto the same, which, as such, is deemed to have assumed finality.
8. Before proceeding further in the matter, an analysis of the provision of Section 13 supra of the Act of 1966 becomes imperative. A closer and deeper examination of Section 13 supra suggests that a tenant who has been evicted from any house or shop by the landlord pursuant to a decree under and in terms of clause (h) of proviso appended to sub-section (1) of section 11 or section 11-A of the Act of 1966, such tenant is entitled to the restoration of possession of the said house or shop and compensation thereof, if the landlords commits violation of any condition enumerated in Section 13 (1) itself, however, within the timeframe prescribed therein, which for the sake of convenience and brevity are referred hereunder:

- i) *Where the building or re-building of the house or shop is not commenced within six months from the date of recovery of possession by the landlord from the tenant by virtue of the decree obtained under clause (h) supra.*
- ii) *Where the house and shop is not occupied by the landlord or by the person for whose benefit it is held within two months from the date of its vacation by the tenant.*
- iii) *Where the house or shop has been occupied by virtue of clause (h) supra by the landlord and is re-let within six months from date of such occupation to any person other than such tenant without the permission of the Controller.*

Thus in view of the aforesaid position, a tenant can seek restoration of possession under section 13(1) *supra* by approaching the Controller within the time specified therein and the Controller may, on an application of such tenant and after giving the landlord an opportunity of being heard, by order direct the landlord to put such tenant in possession of the house or shop or to pay him such compensation as may be fixed by the Controller, or both.

However, it transpires that sub-section (2) of Section 13 *supra* operates in a different situation *qua* the house or shop obtained for reconstruction pursuant to a decree by the landlord from the tenant and provide that if the landlord deviates from the project while building or rebuilding the house or shop and fails substantially to provide the expected extension of accommodation, a tenant can approach the Controller in this regard and the Controller after affording the landlord an opportunity of being heard, can levy a fine on the landlord to the extent provided in sub-section (2) *supra*, and may in addition thereto order the landlords to pay such compensation to such tenant as may be fixed by the Controller. It is significant to mention here that no timeframe as is provided in sub-section (1) of section 13 *supra* is provided in sub-section (2) or sub-section (3) of Section 13 *supra*.

9. Reverting back to the case in hand, it is not in dispute that the tenants maintained the application before the Controller under sub-section (3) of Section 13 and not either under sub-section (1) or sub-section (2) of Section 13 *supra*, and as is manifest from the

plain reading of Section 13(3) when a house or shop has been obtained by the landlord pursuant to an eviction decree from the tenant on the ground of building or rebuilding, such tenant has first right of tenancy therein such house or shop after its building or rebuilding with a caveat that the tenant shall have to pay to the landlord rent at the market rate notwithstanding anything contained in section 8 of the Act of 1966 which section provides for cases in which fair rent shall be fixed by the Controller in accordance with the mode provided therein.

In regard to above a reference to the judgement of this Court passed in case titled as **Amar Nath v. Hans Raj reported in AIR 1984 J&K 67 (2) would be relevant** wherein it has been specifically held that law does not forbid a suit for ejectment on the ground of personal requirement to permit the landlord to occupy it after reconstruction, but law forbids a landlord in occupying a building, the possession of which he has secured by a decree of ejectment solely on the ground that he the landlord requires the building for the purpose of building or rebuilding, making it further clear that in the first class of cases, i.e. where the landlord obtains a decree of eviction on the ground of personal occupation, after building or rebuilding the premises, there is no obligation on his part to offer the same to a tenant on a reasonable rent, whereas in the later class of cases, i.e., where the landlord obtains the building pursuant to a decree of ejectment only on the ground that he requires the building for reconstruction, law under section 13(3)

enjoins upon such a landlord to offer the building to the evicted tenant on a rent at the market rate.

10. Indisputably, as has been observed in the preceding paragraphs, the tenants have sought restoration of possession of the shop in question from the landlord under and in terms of Section 13(3) of the Act of 1966 specifically, and had offered to occupy the shop in question upon payment of rent at market rate, thus, as such, the provision of sub-section (1) or sub-section 2 of Section 13 *supra* cannot be said to have any application to the case in hand by any stretch of imagination.

However, perusal of the impugned order dated 04.03.2013 passed by the appellate court reveals that the said court has completely misdirected itself while having considered the matter under sub-section (1) of Section 13 as the said sub-section was never applicable to the case in hand as is held above. Not only that the observations of the appellate court in the impugned order *qua* the status of the building in question are also misplaced and have now in fact paled into insignificance in view of the factual position obtained by this court regarding the status of the building in question by the appointment of the Commissioner, which Commissioner in the report *supra* has specifically reported that the shop in question stands reconstructed. Thus once the shop in question stands reconstructed pursuant to the eviction decree by the landlords, the tenants, under and in terms of section 13(3) have the first right to tenancy thereof upon payment of rent at market rate

and the landlords in view of the law laid down by this court in case of *Amar Nath* supra cannot deny the said first right of tenancy to the tenant on the ground that they, the landlords, intend to retain the shop for their personal use and does not want to let it out, in that, the same has been held to be forbidden by law in the said judgment.

11. As has been noticed in the preceding paragraphs the landlords have not in essence challenged the impugned order passed by the appellate court, although, in the cause title and prayer clauses, setting aside of the said impugned order has been prayed, yet the ground of challenge urged in the **review** petition filed by the landlord relate to the order passed by the Controller. Be that as it may, insofar as the plea of the landlords raised in the revision petition *quathe* repealing of the Act of 1966 and the applicability of the Provisions of J&K, Residential and Commercial Act of 2012 to the case in hand is concerned, the said issue stands considered by the Division Bench of this Court in CMA No. 279 of 2012 dated 13.12.2012, wherein, by way of an interim order it came to be directed that the suit and appeals which are pending shall continue to be adjudicated upon under the Act of 1966, thus rendering the said plea of the landlords insignificant.

12. It is significant to mention here that a considerable period of time has elapsed from the date of passing of order dated 17.2.2011 by the Controller requiring the landlords to hand over the possession of the shop in question to the tenants within a period of two months from the date of order while directing the tenants to pay the rent to

the landlords at prevalent market rate, and admittedly, the litigation in hand has commenced in the year 1983 when the suit for eviction was filed by the original landlord against the original tenant and, therefore, in view of the attending facts and circumstances of the case, there must and has to be an end to the instant litigation now.

13. For what has been observed, considered and analysed hereinabove, **CR 42/2013 is found to be without any merit and is accordingly dismissed. The CR 55/2023 is allowed** and the impugned order dated 04.03.2013 passed by the Additional District Judge, Jammu, is set aside.
14. The landlord/s consequently are directed to handover the possession of the shop in question to the tenant/s forthwith preferably within a period of ten days, commencing from 01.03.2025 and the tenant/s shall pay rent to the landlord/s in lieu thereof at the present market rate without any fail from the date of occupation of the shop. However, if the landlords are dissatisfied with the said rent, the landlord/s shall be well within their right to seek determination of fair rent in this regard under and in terms of Section 8 of the Act of 1966. In the event the landlords fail to handover the possession of the shop in question to the tenant/s as directed above, the Superintendent of Police concerned in that case, in furtherance of execution of this order, shall ensure the delivery of the possession of the shop in question by the landlords to the tenants, without any fail, and shall file a compliance report before the Rent Controller in this regard.

15. Disposed of along with all CMs (applications).
16. A copy of this order shall be placed on the record of each of the
Revision Petition.
17. Record of courts below is directed to be sent back.

(JAVED IQBAL WANI)
JUDGE

Srinagar
21.02.2025
N Ahmad

Whether the order is speaking:	Yes
Whether the order is reportable:	Yes

