

facilities and standard of living are available, this Court cannot say that she should continue to reside at Panchkula. Accordingly, I find no reason to interfere in the well reasoned findings of the Appellate Authority and the present petition is dismissed.

**Petition dismissed.**

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**PUNJAB AND HARYANA HIGH COURT**

**Before: Mahesh Grover, J.**

Civil Revision No. 208 of 2008

Decided on: 11.12.2008

Pran Nath

Petitioner

Versus

Avtar Singh and others

Respondents

For the Petitioner: Mr. Jai Deep Verma, Advocate.

For the Respondents: Mr. L.S. Sidhu, Advocate.

**East Punjab Urban Rent Restriction Act, 1949 (III of 1949), Section 13-B, Schedule II – Eviction petition u/s 13-B of the Punjab Rent Act -- Summons – Service of – Leave to defend -- Summons were not issued in the proper format as prescribed in the Schedule II of the Act and were issued under the ordinary process – Rent Controller, ordered the proceedings be tried in an ordinary course by treating it as a rent petition -- Section 13-B of the Act is a special enactment which lays down a specific procedure and the same cannot be defeated -- It was imperative upon the Rent Controller to answer the controversy by taking these facts into consideration while determining the application for permission to contest -- Matter remitted back to the learned Rent Controller for deciding the issue for leave to defend afresh.**

**(Para 2,3)**

**JUDGMENT**

**MAHESH GROVER, J.--** This revision petition is directed against the order dated 19.11.2007.

2. The petitioner had preferred as petition against the respondent-tenant pursuant to the provisions of Section 13-B of the East Punjab Urban Rent Restriction Act. The respondent made an application for leave to defend but the learned Rent Controller observed that since the summons were not issued in the proper format as prescribed in the Schedule II of the Act and were issued under the ordinary process, therefore, the proceedings be tried in an ordinary course by treating it as a rent petition.

3. Section 13-B of the Act is a special enactment which lays down a specific procedure and the same cannot be defeated in the manner which is sought to be done by the learned Rent Controller. It was imperative upon the Rent Controller to answer the controversy by taking these facts into consideration while determining the application for permission to contest and

not to give it a new twist to say that the proceedings be tried in a manner which is totally alien to the provision of law which has been invoked before the learned Rent Controller. Therefore, the impugned order is set aside and the matter is remitted back to the learned Rent Controller for deciding the issue for leave to defend afresh.

4. Let the needful be done within a period of three weeks.

5. Parties are directed to appear before the learned Rent Controller on the date fixed i.e. 27.1.2009.

6. Disposed of.

**Order accordingly.**

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**PUNJAB AND HARYANA HIGH COURT**

**Before: Rajesh Bindal, J.**

Civil Revision No. 4633 of 2006 (O&M)

Decided on: 19.01.2009

Punjab Wakf Board

Petitioner

Versus

Haryana Urban Development Authority and another

Respondents

For the Petitioner: Mr. Parminder Singh, Advocate.

For the Respondents: Mr. J.P. Bhatt, Advocate and Mr. Pritam Saini, Advocate.

**Wakf Act, 1995 (43 of 1995), Section 83 – Limitation -- Suit for possession and mesne profit by Wakf Board – Though there is no limitation in the Act, but still the fact cannot be lost sight of that, the plot, which is claimed was allotted way back in 1965 to predecessor in interest of respondent no. 2, they are in possession since 1966 and the suit was filed in 2002 – Suit dismissed.**

**(Para 6,7)**

**JUDGMENT**

**RAJESH BINDAL, J.--** Challenge in the present petition is to the order, passed by the Tribunal constituted under Section 83 of the Wakf Act, 1995 (for short, 'the Act'), whereby the suit for possession and recovery of mesne profits filed by it was dismissed.

2. Briefly, the facts are that the petitioner, claiming ownership of khasra No. 122, measuring 10 marlas of land, situated within the revenue estate of Village Ballabgarh filed a suit for possession and recovery of mesne profits of Rs. 25,000/- per month. It was claimed that the property as per the jamabandi for the year 1996-97 was declared as wakf property vide notification dated 21.11.1997. Though the same was never acquired by the Haryana Urban Development Authority (for short, 'HUDA'), but it is in illegal possession thereof. On the other hand, the stand of HUDA was that the property is not comprised of khasra No. 122 as is sought to be alleged by the petitioner,