

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.3038 of 2008 (O&M)

Date of decision: 03.07.2015

Basant Kumar (deceased, through LRs)

... Petitioner

versus

Romesh Kumar Deora

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Ashwani Kumar Chopra, Senior Advocate,
with Mr. Gursheer Singh Bhandal, Advocate,
for the petitioner.

Mr. Dharam Vir Sharma, Senior Advocate,
with Ms. Akshita Chauhan, Advocate,
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. Cost paid, as directed.
2. The petition for leave to defend in an action taken from the landlord under Section 13-B of East Punjab Urban Rent Restriction Act was declined and the tenant is the revision petitioner before this court. The learned senior counsel appearing on behalf of the tenant states that the Rent Controller has wrongly assumed that the landlord was holder of an Indian Passport, while the document

shows that it was being issued by the Government of USA and he is a USA citizen. The second contention is that he is still residing in a foreign country and he has not returned to India to invoke Section 13-B of the Act. The third objection is that the landlord has not disclosed the existence of other property than the petition mentioned property and the existence of other property has been brought out through the records filed before the court below. There is, therefore, a clear betrayal of want of bona fides. It is also contended that the bona fides are suspect by the fact that the petitioner is Vice President of Amrigan Express-a renowned credit card company and the property that was sought for eviction is a small shop in Kotkapura-a small town in Punjab. Learned senior counsel appearing on behalf of the tenant would also state that the Rent Controller committed a serious error in procedure by simultaneously ordering summary ejectment after declining the leave to defend without adverting to the legal requirements of the needs before ordering eviction.

3. Learned senior counsel would point out that the documents filed by the landlord would indicate that the suit property came to him in a family settlement and that his own parents were from India and he is a person of Indian origin. He would say that he had actually come to India to present the petition. His bona fides will be evidenced from the fact that the demised shop is stated to be the most suitable premise and he has not stated that it was the only

premises that he had.

4. I do not think it is necessary to pick several holes in the contentions raised by the tenant. It is sufficient if I may merely point out to one circumstance that should be taken for the benefit of the tenant to grant the relief. It is a fact that the landlord has stated in the petition thus:-

“.... The demised shop is most suitable for the business to be established by the petitioner. He do not possess any other suitable building/shop within the Municipal limits of Kotkapura. He has not vacated any such shop/premises at Kotkapura.”

It is admitted by the learned senior counsel appearing on behalf of the landlord that he does own other property within the town. The counsel would qualify the averment in the petition as meaning that he does not deny the existence of other properties but he has only stated the petition mentioned property as the most suitable one.

5. I would find the explanation to be evasive by the landlord as he has surely not placed a definite averment which is essential for testing the bona fides that he did not own any other property or if he own any other property, he ought to have explained in the petition expressly and pointed out as to how it was relatively unsuitable for his own requirements. The expression of bona fides are not merely cosmetic words but meaning has to be infused in

them by appropriate pleadings to enable the court to render proper adjudication. The tenant surely has a defence which is tenable on the face of it, though I will not express that such an objection by the tenant must prevail at the end of trial. It will be open to the Rent Controller to take an adjudication on the basis of evidence available on the respective contentions raised by the parties. I will give an opportunity to the tenant to enter the fray and file his reply. The court will receive the same and render a full-fledged adjudication on evidence. The impugned order is set aside and the revision petition is allowed. The court will endeavour to expeditiously dispose of the matter since the petition is brought through a special procedure provided under the Act for fast tracking trial.

(K.KANNAN)
JUDGE

03.07.2015
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