

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

Civil Revision No.195 of 2015 (O&M)

Date of Decision: January 13, 2015.

Dinesh Kumar (Gogal) and another

.....PETITIONER(s).

VERSUS

Lila Dhar

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Anurag Jain, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

Respondent Lila Dhar filed a petition under Section 13-A (1-A) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as 'the Act') seeking eviction of the revision petitioners from the ground floor of the shop bearing MCH No.882/532/1 as fully described in the head note of the petition for his personal bona fide necessity to start timber business after his retirement.

On receipt of notice, revision petitioners filed application seeking permission to contest the petition. To understand the grounds on which leave to defend was sought, the application of the revision petitioner is reproduced as follows:-

“Application for seeking permission to contest the petition.

Sir,

The respondent submits as under:-

1. That the present petition has been filed by the petitioner on false ground of necessity whereas the respondents are poor person and are earning their livelihood from the earning of the shop in question.
2. That the petition is not maintainable & the respondents are hardly needed the shop in question.
3. That the provisions of the Act under which the petition has been filed are not applicable to this case filed by the petitioner.

It is, therefore, prayed that the leave to contest the case/petition may kindly be granted to the respondent to enable him to contest the same.”

The application was allowed by the Rent Controller vide order dated 22.11.2013. The respondent-landlord filed revision challenging the order of Rent Controller dated 22.11.2013 in civil revision No.1838 of 2014, which was allowed on 03.11.2014 and it was observed therein as follows:-

6. This proposition propounded by the Rent Controller is not sustainable in law. No distinction can be drawn between residential and non-residential buildings for domain and sweep of provisions of Section 13-A of the Act. To restrict, provision of Section 13-A of the Act only to the residential buildings would not only atrophy the field of Section 13-A of the Act but also would scuttle the very purpose of enactment of this provision.

7. The distinction of residential and non-residential buildings brought for classification of buildings has been held to be violative of Article 14 of the Constitution of India and now the provision equally applies to residential as also to non-residential buildings. Reference in this regard may be made to *State of*

Haryana Vs. Ved Parkash Gupta and another 1999 (1) Rent Law Reporter 689 (P&H); Dr. Madan Lal Vs. Rattan Singh 2010 (4) RCR (Civil) 203 (P&H); Satyawati Sharma (Dead) by LRs Vs. Union of India and another 2008 (2) RCR Civil 805 (SC) and Harbilas Rai Bansal Vs. The State of Punjab and another 1996 (1) RLR 1 (SC).

8. In fact, reading of the application of the tenant seeking leave to defend the petition of eviction filed by the landlord against him, does not disclose any triable issue whereby participation of the tenant is required. The Rent Controller has dealt with the matter very casually and in a perfunctory manner.”

Vide impugned judgment dated 11.11.2014, the application filed by the revision petitioners for permission to contest was declined and his ejectment order was passed.

Learned counsel for the revision petitioners while challenging the impugned order, has argued that revision petitioners were not served summons in the form appended to the Act, rather ordinary summons were issued; secondly, the ground put forth by the respondent that he wants to start timber business after retirement is merely a wish and not a bona fide necessity.

Both the above arguments of learned counsel for the revision petitioners are without merits. Admittedly, revision petitioners put in appearance within the specified period of 15 days and moved application seeking leave to defend and mere ground that summons were not issued

to him on specified proforma under the Act, has not caused any prejudice to him or has defeated his right to seek leave to defend in any manner.

The respondent-landlord has retired as Additional Director, Food and Supply Department, Chandigarh on 31.12.2011 and he, in order to supplement his income, wants to do some business in the demised shop. This argument of learned counsel for the revision petitioners that bona fide need as projected by the respondent-landlord is merely a wish, is without any basis.

As per provisions of Section 13-A(4) of the Act, the revision petitioners were required to file an affidavit stating the ground on which he seeks to contest the application for eviction. In the application/affidavit reproduced above, the revision petitioners have not come up with any legal or factual plea to make out a ground to allow him to leave to defend. The only plea raised by the revision petitioners was that the petition under Section 13-A of the Act was not maintainable. This plea of the revision petitioners has already been discarded in Civil Revision No.1838 of 2014.

As the revision petitioners have not put forth any ground in their application seeking leave to defend, the Rent Controller has committed no error of law or fact while declining the same.

This revision petition has no merits. Dismissed.

January 13, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE