

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 2488 of 2015

Date of Decision: May 18, 2015

The Punjab State Cooperative & Marketing Federation Ltd. and anr.

.....Petitioners

Vs.

Ramesh Kumar Kochhar

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.H.S. Lalli, Advocate
for the petitioners.

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M.M.S. BEDI, J.(ORAL)

This is revision petition under Section 18 (4) of the East Punjab Urban Rent Restriction Act, for short 'the Act', against the order passed by the Rent Controller dated December 10, 2014 allowing a petition under Section 13 B of the Act filed by an NRI owner landlord- respondent.

The foremost contention of learned counsel for the petitioners is that the description of the property in the ejectment petition is contrary to the document annexure P-5 regarding taking over on rent, of the premises in dispute by the Branch Manager of MARKFED, Phillaur. Learned counsel has vehemently urged that the description of the property in the document

dated October 1, 1981 is “upper story of shop No. 10, Grain Market besides RD Prithi Chand”, whereas the same has been described in the title as MC No. B-7/324-325.

In this context, I have considered the averments in the application under Section 18 of the Act, annexure P-2 which indicates that the objection taken by the petitioners resisting the application under Section 13 B of the Act is as follows:-

“That the premises in dispute do not bear Khasra No. 153/03 as alleged in the petition.”

I have carefully considered the contention of learned counsel for the petitioners in context to the requirement and scope of considerations before Rent Controller in a petition under Section 13 B of the Act. The landlord filing a petition under Section 13 B of the Act is merely to show that he is a non-resident Indian; he has returned to India; he was owner of the property for the last five years; besides establishing that his requirement of the accommodation was genuine. The principle of description of immovable property which is the subject matter of the case is enshrined in Order 7 Rule 3 CPC which prescribes that where the subject matter of the suit is immovable property, the plaint shall contain a description of the property sufficient to identify it, and, in case such property can be identified by boundaries or numbers in a record of settlement or survey, the plaint shall specify such boundaries or numbers. In context to the said statutory provisions, I have considered the contentions. A perusal of the ejectment

petition under Section 13 B of the Act indicates that the description of the premises is given by boundaries as well as with property number and house number with khatoni and Khasra numbers situated in area of Phillaur Cantt. In Para 1 of the petition, it has been mentioned that the said premises also bears MC No. B-7/324-325. The area being 3 marlas and its situation in Khewat No.8, Khatoni No.8 Khasra No.153 has been clarified. There does not appear to be any contradiction or anomaly regarding description of the property as such there was no ground to interfere in the order passed regarding the rented premises under Section 13 B of the Act which has been clearly depicted in the pleadings and the title.

Counsel for the petitioners has next contended that the petition has been filed through attorney which is not permissible

I do not find any force in the said contention. Petition under Section 13 B of the Act cannot be rejected merely on the ground that it has been filed through a power of attorney.

Counsel for the petitioners has placed reliance on **Basant Kumar Vs. Romesh Kumar Deora**, 2008 (1) HRR 486 wherein the petition and affidavit of attorney in proceedings under Section 13 B of the Act had been disbelieved observing that attorney can give such evidence only on those aspects which are in his personal knowledge.

I have considered the contention in context to the said judgment and the pleas taken in application under Section 18 A of the Act. A perusal of the application for leave to contest indicates that the maintainability of the

petition through attorney has not been challenged rather a vague plea has been taken that Ramesh Kumar had never appointed Ramesh Kumar Kochhar as his attorney. The plea is thus not available to the petitioners at this stage. No ground is made out for interference in the order passed by the lower Court.

Dismissed.

Since the petitioner No.1 is a Cooperative Society, it would require some reasonable time to vacate the tenanted premises. In the interest of justice, a period of three months is granted to the petitioners to vacate the premises and hand over the vacant possession to the landlord.

May 18, 2015
sanjay

(M.M.S.BEDI)
JUDGE