

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

CR No. 3183 of 2014 (O&M)
Date of decision: April 28, 2015

Harbans Lal

...Petitioner

Versus

Charanjit Singh

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. Vikas Bahl, Senior Advocate with
Mr. Nitish Garg, Advocate,
for the petitioner.

Mr. HK Aurora, Advocate,
for the respondent.

K. KANNAN, J. (Oral)

1. The revision petitioner is the respondent in an ejectment petition filed under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short '**the Act**'). The petitioner sought for leave to defend on three contentions: one, the petitioner is a British citizen holding a UK passport and he was born in Nairobi. There is no reference anywhere in the petition about his Indian origin except his claim that he is a Non-resident Indian. The second objection was that the petitioner has provided no proof of ownership of the building and admittedly the person claiming to be the landlord himself filed a civil suit for recovery of possession characterizing the tenant as in unlawful possession. The suit was decreed in part when the trial court allowed him the benefit of proceedings for eviction under the

Rent Control Act. The appellate court has modified the judgment and remanded the matter to the trial court, the suit is still pending. Aggrieved by the judgment of the first appellate court, the party has filed an SAO in this court which is stated to be pending. The stand taken by the landlord that the tenant was in unauthorized possession and a plea there was no disclosure of document of title of the landlord are grounds that are surely available in defence to an action under Section 13-B of the Act. The third objection was that the bonafides of the landlord itself is suspect since the landlord relies on a general power of attorney issued to a local Indian on 16.11.1999 which is even prior to the statutory provision under Section 13-B of the Act brought through an amendment effected from 31.5.2001. The contention is that without a specific power for prosecuting the case under Section 13-B of the Act, the power granted earlier cannot be taken to include the intendment of parties when such a legislative provision did not exit.

2. I would hold that points taken surely involve matters for adjudication on the basis of appropriate evidence brought. If the landlord was a Non-resident Indian, with Indian mooring through parentage then there ought to be evidence, but it was not placed before the court below. Even the proof of ownership was not attempted to be given anywhere in the pleadings. I cannot pre-judge an issue of whether any specific power is necessary for prosecuting a case under Section 13-B of the Act or whether the general power itself could be sustained for prosecuting such a case. They are surely jurisdictional issues which were required by appropriate pleading to be brought by the tenant and the landlord will also be at liberty to join issues by producing appropriate proof of his being Non-resident India status and his ownership apart from any other material which the

landlord may think as essential. The tenant could not have been thrown off at the threshold without allowing for a leave to defend.

3. The impugned order is set aside and the tenant will have a right to defend by adopting the procedure by filing the written statement and carrying through his defence in a full fledged trial.

April 28, 2015
prem

(K.KANNAN)
JUDGE