

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

**CR No.3963 of 2014 (O&M)
Date of decision : March 24, 2015**

Avtar Kaur

..... Petitioner

Versus

Tejinder Singh Baxi

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

Present : Mr. Nandan Jindal, Advocate,
for the petitioner.

Mr. A.P.S. Guliani, Advocate,
for the respondent.

GURMIT RAM, J.

1. This revision petition is filed by the petitioner (tenant) against the order dated 16.04.2014 passed by the learned Rent Controller, SAS Nagar, Mohali vide which her application for leave to defend has been dismissed.

2. Brief facts pertaining to this revision petition are that the respondent (landlord) had filed a petition under Section 13-A of the East Punjab Urban Rent Restriction Act, 1949 (in short “the Act”) for the ejection of the petitioner (tenant) from the demised premises. His plea in

brief was that he is the owner and landlord of the demised premises. He let out the same to the petitioner (tenant) on a monthly rent of ₹2,000/- for residential purpose vide rent agreement dated 01.07.1999 excluding the water and electricity charges. Since 01.04.2008 petitioner (tenant) had been defaulting in making payment of rent for which he had to file a rent petition against the petitioner (tenant) in which she tendered the rent provisionally assessed at the rate of ₹2,000/- per month upto the March, 2012.

3. It is further his case that earlier the respondent (landlord) was in the service of Punjab and Sind Bank, Sector-9, Chandigarh and he retired from the post of Officer from that Bank on 24.07.2013. He required the demised premises for his personal use and occupation since he did not possess or own any other suitable accommodation within the local area of Mohali.

4. On receipt of notice, the petitioner (tenant) appeared and filed application for grant of leave to defend the petition taking preliminary objection that the petition is not maintainable. Further respondent (landlord) is having his own house at Chandigarh, wherein he is putting up being a co-sharer along with his father. This petition is misuse of process of law. It was alleged that the respondent (landlord) does not require the demised premises for his use and occupation. Rather he intends to let out the same to some other tenant on a higher rent. He even used illegal means to get him evicted from the demised premises. It is also denied that respondent (landlord) is a specified landlord. The alleged rent agreement is stated to be forged and fabricated.

5. In reply to this application filed for grant of leave to defend, the

respondent (landlord) took the plea that this application is not maintainable. In the case in hand relationship of landlord and tenant is not denied and the proceedings filed under Section 13-A of the Act are summary in nature. The house at which he is residing is belonging to his father.

6. The learned trial Court after hearing the learned counsel for both the parties and going through the record as well declined the application of the petitioner (tenant) filed for the grant of leave to defend the petition under Section 13-A of the Act vide the impugned order.

7. Feeling aggrieved from this order, the petitioner (tenant) has come up in the instant revision petition, notice of which was given to the respondent (landlord). Counsel for both the parties were heard. Record was also perused with their able assistance.

8. Learned counsel for the petitioner (tenant) contended that in the case in hand, the respondent (landlord) has sought his voluntary retirement from the services of Punjab and Sind Bank and as such, he does not fall within the purview of specified landlord as provided under Section 13-A of the Rent Act. Generally seeking voluntary retirement by a Government employee from his service is not a stigmatic, it is as good as the retirement of a Government employee on attaining the age of superannuation. A Government employee who has sought voluntary retirement from any Government service is well within his right to avail the benefit of the provisions of Section 13-A of the Act. As per the case of the respondent (landlord), he retired from his services on 24th July, 2013 and the instant petition was presented on 05.09.2013. So the above contention of learned counsel for the petitioner is declined and disposed of accordingly.

9. Then the learned counsel for the petitioner has contended that respondent (landlord) is also having his own house bearing No.1225, Sector 44-B, Chandigarh and as such, his alleged personal necessity for the use and occupation of the demised premises which is situated at Mohali is not genuine one. Further he has also contended that since the respondent (landlord) has concealed the fact of ownership of his house abovesaid at Chandigarh, so he is also guilty of concealment of facts and on this ground the present petitioner (tenant) is entitled to leave to defend the petition under Section 13-A of the Act filed by the respondent (landlord). In the case in hand, the respondent (landlord) after retirement intends to settle in the demised premises situated at Mohali. The petitioner (tenant) has failed to establish on the record that respondent (landlord) is also having some other suitable accommodation within the local limits of Mohali other than the demised premises. It is well settled law that it is for the landlord to see where he is to reside after retirement and what accommodation is suitable for his residence as per his need and family status. Neither the Court nor the tenant can dictate him any terms in this connection when his requirement of personal use and occupation of demised premises is found to be bona fide. Herein the principle as laid down in case law titled as ***Pritibha Jhangi vs. Devinder Kumar Singla, 2010 (1) L.A.R. 577 (P&H)*** are followed. For the abovesaid reason the respondent (landlord) cannot be held to be guilty of any concealment of the material fact from the Court.

10. So far as the earlier petition filed by the present respondent (landlord) is concerned, the same was instituted on the ground of non-payment of arrears of rent only, so as such it has no bearing on the case in

hand.

11. Moreover the primary object of Section 13-A of the Act is to provide the retirees a shelter under their own roofs in the late evening of their lives after their retirement.

12. The case law cited by learned counsel for the petitioner (tenant) titled as *Mrs. Kushal Takhar vs. Gurinder Singh 2009(1) R.C.R. (Civil) 629* is not applicable to the case in hand for the reason that facts of this case are entirely different from the facts of the case in hand.

13. In the light of the above discussion, this revision petition is held to be meritless and as such, it stands dismissed and disposed of accordingly.

14. Since the main case has been disposed of, the pending civil miscellaneous application, if any, also stands disposed of being rendered infructuous.

March 24, 2015

Gaurav Sorot

**(GURMIT RAM)
JUDGE**