

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.7299 of 2015(O&M)
Date of decision: 04.11.2015

Sanjeev Kumar Anand

... Petitioner

Versus

Harbhajan Singh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Divanshu Jain, Advocate for the petitioner.
Mr. Ramesh Sharma, Advocate for the respondents.

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?

ARUN PALLI J. (Oral)

Vide order being assailed dated 09.09.2015, rendered by the Rent Controller, Kapurthala, tenant-petitioner had been denied leave to contest the eviction petition and a consequential order of eviction had since been passed. Concededly, the demised premises was purchased by father of the respondents, namely, Bhulla Singh, pursuant to a sale deed. And, post his death on 20.04.2003, respondents succeeded to the shop in question and were thus the owners as also the landlords by operation of law. And, in order to prove that respondent Harbhajan Singh indeed had an NRI status, placed on record the attested passport copy and permanent residency proof, which showed that he had an

unlimited residence permit, a long term residency in Europe, that was issued on 28.03.2011. Likewise, driving licence of respondent Raghbir Singh, issued by New York State, was also brought on record along with his employment authorization card.

On an analysis of the matter in issue and the material on record, learned Rent Controller concluded as thus:

“8. This Court is of the view that the plea of the respondent/applicant is hypothetical, because as discussed earlier, there is nothing on file to show that the need of the petitioner qua the house in question is not genuine. Moreover, Sub Section (3) of Section 13-B of the Rent Act provides inbuilt restrictions and has given a right to tenant for restoration of possession of said building, if landlord let out the building or any portion to any other person except to the evicted tenant and or any contravention thereof, he shall be liable for punishment of imprisonment for a term, which can be extended up to six months. These restrictions and conditions inculcate a strong presumption that need of the landlord is genuine. Moreover, such averments made by specified landlord shall be deemed to be admitted by the tenant in view of legal provisions contained in Section (4) of Section 18-A of the Act.

9. In the case in hand, no such concrete record has been produced on file, from which, *bona fide* need of petition could be rebutted or deduced by the court. So, this contention of respondent/applicant also goes.

10. In view of the above discussion, this court is of the considered opinion that the petitioners have not only proved that they are Non-resident Indians, but they are the owners of the property in question for the last more than five years before the filing of present petition and that the need of the petitioners is *bona fide* one. So, all the ingredients to entitling the immediate possession to the NRI-landlord, stands proved. Thus, the leave to contest application filed by the respondent is hereby dismissed with costs on account of claim of applicant regarding the bonafide requirement of the demised premises on account of personal use and necessity. Accordingly, the petition of the petitioners succeed and the same is hereby allowed with costs. The respondent is ordered to be evicted from the demised premises, as fully detailed in the head note of the petition, and is directed to hand over the vacant possession of the same to the petitioners within the period of two months from the date of order, failing which, the petitioners shall be at liberty to get the same vacated through the due process of law. Memo of costs be prepared. File be consigned to the Record Room, Kapurthala."

Ex facie, respondents had proved that they were Non-Resident Indians and also the owners of the demised premises for the last more than five years immediately preceding the institution of the eviction petition. And, they indeed required the premises for personal bona fide necessity. All the ingredients, as envisaged under the provisions of Section 13B of the East Punjab Urban Rent Restriction Act,

1949 (for short, 'the Act'), were duly satisfied. Nothing was brought on record to show to the contrary. Likewise, petitioner-tenant failed to make out any case, on the basis of whereof he could be granted leave to defend the proceedings.

Learned counsel for the petitioner could not point out as to how the conclusion arrived at by the Rent Controller was either contrary to the position on record or suffered from any material illegality.

That being so, no interference is warranted in exercise of revisional jurisdiction. Petition being devoid of merit is accordingly dismissed.

November 4, 2015
Rajan

(Arun Palli)
Judge