

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 7577 of 2014 (O&M)

Date of decision: 23.03.2015

Jyotsna

... Petitioner

versus

Shashi Bala

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Sandeep Arora, Advocate for the petitioner.

Mr. Ajay Singla, Advocate for the respondent.

K.Kannan, J.

The petitioner-tenant's defence was that a foreign citizen holding a foreign passport cannot claim a status of NRI. I find the argument to be untenable if that is the only defence on which he was seeking a leave to defend. The definition of NRI under the East Punjab Urban Rent Restriction Act, 1949, requires a person to be of Indian origin and does not use the expression "Indian Citizen". The person who was of Indian origin and who has taken a citizenship elsewhere in another country who is still a person of Indian origin and there are three circumstances which the law contemplates for a person who claimed the status. Section 2 (d) (d) reads thus:

2(dd) "Non-resident India" means a person of India Origin, who is either permanently or temporarily settled outside India in either case-

- (a) for or on taking up employment outside India; or
- (b) for carrying on a business or vocation outside India; or
- (c) for any other purpose, in such circumstances, as would indicate his intention to stay outside India for a uncertain

period.

If the plaintiff comes in one of the three Clauses then he is entitled to apply himself as belonging to a category of NRI and claim the benefit under Section 13(b).

I do find there is any contest worthwhile to sure a leave to sue. The rejection of the relief was, therefore, appropriate and I declined to make any intervention.

Learned counsel for the petitioner states that the issue of whether a foreign citizen could be treated as NRI is a matter pending before Hon'ble the Supreme Court. So long the matter is pending, there are no stay of proceedings of other proceedings on a similar issue. I will not take mere pendency of the matter before Hon'ble the Supreme Court has fettered the right of jurisdiction of this Court. I found no tenable defence for leave to be granted.

The civil revision petition is dismissed with above observations.

(K.KANNAN)
JUDGE

23.03.2015

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