

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No.777 of 2014(O&M)
Date of decision: 22.1.2015

Kundan Singh

....Petitioner

Versus

Kulbir Singh and another

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. S.K. Mahajan, Advocate for the petitioner.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition is to the order dated 15.1.2011 whereby the Rent Controller, Baba Bakala has dismissed the application of the petitioner for setting aside the exparte proceedings.

The respondents-landlords filed an application under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as "the Act") in which summons were issued to the petitioner. There is no dispute that he received summons but did not put in appearance. An exparte order was passed against him on 7.8.2010 where upon he filed an application. The Rent Controller, Baba Bakala noticed that the application for leave to defend has to be filed within a stipulated period of 15 days from service and the tenant had failed to turn up on the said date and neither filed any application for leave to defend. Resultantly, application under Section 13-B of the Act has been allowed and direction was issued to vacate and deliver the vacant possession of the property in question.

It is settled principle that under Section 18-A (4) & (5), the tenant is supposed to file an application for leave to contest upon receiving summons which are issued in the form specified in Schedule II. In case the application is filed within limitation and only if the Rent Controller comes to the conclusion that there is some ground, on which leave to defend is to be granted, the matter has

to be tried, otherwise the ejectment has to be ordered. The period of limitation prescribed under the Rent Act cannot be extended as has been held by a Division Bench of this Court in **Ashwani Kumar Gupta Vs. Siri Pal Jain 1998 (3) PLR 170** and the contrary view taken by the Single Bench of this Court was not approved by holding that under the Rent Act which is a special legislation the provisions of Limitation Act could not be invoked. The said view was followed in **S.Amarjit Singh Walia Vs. S.Harbans Singh 2004(3) PLR 141.**

Thereafter in **Babu Ram Vs. Naresh Kumar 2006(3) PLR 529** similar view was taken and followed in **Vijay Kumar Vs. Surinder Tamna 2007 (3) PLR 797** and in **Suman Vs. Bhagat Ram 2007(4) PLR 440.** It was accordingly held that procedure prescribed under Section 18-A of the Act has an overriding effect on all other provisions of the Rent Act and any other law for the time being in force and there is no provision for extension or relaxation in the prescribed period.

In such circumstances, in the absence of any application for leave to defend having been filed within the period of limitation, ejectment had to follow as a necessary consequence. A Full Bench of this Court in **Anwar Ali Vs. Gian Kaur 2012(2) PLR 554** has also held to the same effect that in case of refusal to leave to defend under Section 18-A of the Act, eviction of the tenant has to be ordered as an automatic consequence.

Keeping in view the above facts, the order dated 15.1.2011 passed by the Rent Controller, Baba Bakala does not suffer from any infirmity which would warrant interference by this Court.

Accordingly, the present revision petition is dismissed.

22.1.2015
Pka

(G.S.SANDHAWALIA)
JUDGE