

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

226

Civil Revision No.8024 of 2014

Date of Decision:01.10.2015

Shri Vijay Kumar Saqi and another

....petitioners

Versus

Bhupinder Singh and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

1.Whether Reporters of local papers may be allowed to see the judgement?

2. To be referred to the Reporters or not? YES

3. Whether the judgment should be reported in the Digest?

Present: Mr.Harshit Jain, Advocate
for the petitioners

None for the respondents

ARUN PALLI, J.(ORAL):-

Vide order being assailed, dated 11.08.2014, rendered by Rent Controller, Amritsar, application moved by respondents No.1 and 2, under Section 18-A of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the Act'), seeking leave to contest, the eviction petition had since been accepted. The conclusions recorded in this regard read as thus:

“I have perused the case file. Perusal of record reveals that notice to respondents No.2 and 3 was received back effected by way of munadi. Whereas notice to respondent No.1 was received back served on 08.10.2012. The application for leave to defend by applicant/respondent No.1 has

been filed on 01.02.2013 and he appeared through his attorney on 17.11.2012. On the other hand applicants/respondents No.2 and 3 appeared in this case through their attorney on 10.01.2013 and they filed the present application on the same date. However, the summons by way of munadi was received back served on 08.01.2013, meaning thereby that the applicants/respondents No.2 and 3 filed their application to leave to defend within time. Therefore, respondents No.2 and 3 are allowed to contest the present petition. However, application by applicant/respondent No.1 has been filed after the lapse of 15 days from date of service. Therefore, the applicant-respondent No.1 can not invoke the provisions of limitation act for seeking condonation of delay. In this regard law is very much clear on this point in Om Parkash vs. A.K.Bassi, 2008(3) RCR Civil 215 in which it was held that even one day delay by a tenant in filing leave to defend can not invoke the provisions of limitation act for condonation of delay under EPURRA 1949. Therefore, the application qua applicant/respondent No.1 stand declined.”

Ex facie, the Rent Controller granted leave to respondents No.1 and 2, to cotest the eviction petition just because

they had moved an application seeking leave within time. Needless to assert, leave is to be granted under Section 18-A of the Act, if the contents of the affidavit furnished by the tenant in support of his prayer, disclose a triable issue, and, if permitted to be proved by adducing evidence, shall dis-entitle the landlord to seek his eviction. However, the order is wholly bereft of any such reason and is thus, cryptic.

None has chosen to appear on behalf of respondents No.1 and 2 despite service.

That being so, the petition is accepted and the order dated 11.08.2014 is set aside. Learned Rent Controller, Amritsar is directed to re-decide the application moved by respondents No.1 and 2, and pass an order afresh, strictly in accordance with law. However, this order shall not constitute any expression of opinion on merits of the claim of either party.

01.10.2015

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(ARUN PALLI)
JUDGE