

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

**C.M. NO.22176 CII OF 2016 &
CIVIL REVISION NO.7313 OF 2016
DATE OF DECISION: NOVEMBER 03, 2016**

Rakesh Kumar

.....Petitioner

VERSUS

Dial Singh Sagoo and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Kewal Singh, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASI, J. (ORAL)

Petitioner has approached this Court, challenging the order dated 05.09.2016 passed by the Rent Controller, Ludhiana, primarily on the ground that service as per the requirement of Section 18A (2) of the East Punjab Urban Rent Restriction Act, 1949 (for short, "1949 Act") has not been effected upon him for the simple reason that *munadi*, which had been carried out on 23.03.2015 as per the order of the Court of Rent Controller, Ludhiana, is not as per Schedule II. He has made reference to the report as submitted in Court, copy whereof has been appended as Annexure P-4, to contend that it is not as per the Schedule mentioned in the provisions of Section 18A (2) of 1949 Act. He, however, could not dispute the fact that the petitioner had engaged a counsel, who had submitted his power of attorney on his behalf on 24.03.2015 and the same was ordered to be placed

on record on 27.03.2015. Counsel contends that limitation within which the application could have been filed by the petitioner should have been taken into consideration from 27.03.2015, the date fixed for appearance and not from the date of *munadi* i.e. 23.03.2015 or submission of power of attorney by the counsel on behalf of the petitioner i.e. 24.03.2015. He, on this basis, contends that the impugned order dated 05.09.2016 passed by the Rent Controller, Ludhiana, cannot be sustained and deserves to be set-aside.

I have considered the submissions made by learned counsel for the petitioner but do not find myself in agreement with the contentions as raised by him.

As per the provisions contained under Section 18A (2) read with Schedule II of 1949 Act, the limitation period is 15 days from the date of service of summons within which an application in the form of an affidavit for grant of leave to defend is to be filed. The date of knowledge about the pendency of the case on the part of the petitioner would be 23.03.2015, the date on which the *munadi* was conducted as per the order passed by Rent Controller, Ludhiana, which would be the date of service of summons. Merely because the specific provision under which the case has been filed has not been mentioned, cannot be a ground in itself for extending the period of limitation as prescribed under the statute. Further, counsel for the petitioner had filed his power of attorney on 24.03.2015 and from that date itself even if the limitation is taken (although not permissible in law), still the application for leave to defend would be beyond the period of 15 days from that date also. The purpose for issuance of summons and effecting service upon the respondents is to bring it to the knowledge of the party concerned about the case being pending and it is from the date of

service having been effected that the limitation period starts as per Section 18A(2) of 1949 Act. It is apparent from the facts that the petitioner came to know of the *munadi* having been conducted as per the orders passed by the Rent Controller, Ludhiana, on 23.03.2015 which was proper service upon the petitioner and, therefore, the limitation started running against him from the said date. This is established from the fact that on 24.03.2015 a counsel has filed his power of attorney for inspection of the case file. Despite the legal advice having availed of by the petitioner, he preferred to file an application for leave to defend on 10.04.2015, which is beyond the prescribed period of 15 days from the date of service of summons i.e. 23.03.2015.

Division Bench of this Court, in Ashwani Kumar Gupta Vs. Siri Pal Jain, 1998 (2) RCR (Rent) 222, has held that if an application for leave to contest is not filed within 15 days of service of summons, the Rent Controller has no power or discretion to condone the delay or extend time, as provisions of Section 5 of Limitation Act are not applicable in respect of specified landlord. In Sham Sunder Arora Vs. Kartar Singh, 2011 (1) RCR (Rent) 97, Arunima Manchanda @ Arunima Dhingra Vs. Abhey Man Singh Sidhu, 2011 (4) Law Herald 3048 and in Punjab National Bank and another Vs. Sh.Ender Pal Singh Sahota, 2011 (2) RCR (Rent) 613, it has been similarly held that an application for leave to defend has to be filed within 15 days of service of summons, which period cannot be extended/condoned due to the special provisions and procedure prescribed under Section 18 of 1949 Act, resulting in non-application of the Limitation Act.

The petitioner having not preferred an application for leave to defend within the time stipulated under the statute and further there being

no provision for extension of said period, the order as passed by the Rent Controller, Ludhiana, is in accordance with the provisions of law and the statute, which do not call for any interference.

In view of the above, finding no merit in the present revision petition, the same stands dismissed.

Since the main petition stands dismissed, C.M. No.22176 CII of 2016 for stay of eviction is also dismissed.

**November 03, 2016
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No