

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

**CR-78-2016 (O&M)
Date of decision : 25.05.2016**

**THE PUNJAB SMALL INDUSTRIES &
EXPORT CORPORATION LTD.**

..... PETITIONER

VS

GURPAL SINGH

..... RESPONDENT

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Sanjeev Sharma, Advocate
for the petitioner.

Mr. A.S.Talwar, Advocate
for the respondent.

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?

AJAY TEWARI, J. (ORAL)

On perusal of file it is revealed that inadvertently in the order dated 30.03.2016 the next date of hearing has been mentioned as 25.05.2017 instead of 25.05.2016. The next date of hearing be now read as 25.05.2016.

This petition has been filed against the order of the Rent Controller allowing the eviction petition filed by the respondent under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (for short the Act of 1949).

The first argument of learned counsel for the petitioner is that being a foreign citizen the respondent would not be covered by the

definition of Non-Resident Indian (NRI) as defined under Section 2 (dd) of the Act of 1949. In *Krishan Kumar Vs. Kamla Devi* passed in CR No.3509-2014, decided on 09.05.2016 this argument has been rejected. The second argument which was raised that the property was leased out to the petitioner by the entity M/s Jawala Singh & Sons through its partner Gurmukh Singh and the respondent was not even the partner of that firm.

On the other hand learned counsel for the respondent has pointed out that as per the revenue record the property was originally owned by Jawala Singh and, on his death the same was mutated in the name of the petitioner and his three siblings and the fact remains that the said entity M/s Jawala Singh & Sons was not the owner but the owner was Jawala Singh personally and through him now the respondent. He has further argued that under the Act of 1949 as originally enacted the word owner did not appear anywhere and the whole Act was concerned with the relationships of landlord and tenant and it was only for the first time when Section 13-B of the Act was added that it was stipulated that the special benefit which had to be given to NRIs would only be given to owner NRIs and not to landlord-NRIs. In the present case once the respondent proved that he was a co-owner the question of who let out the premises would pale into insignificance.

I find myself in agreement with this argument.

Learned counsel for the petitioner has also argued that once the respondent himself stated that he was only co-owner to the extent of 1/4th share he could not seek eviction from the entire premises.

Learned counsel for the respondent has relied upon *Smt.Bachan Kaur and others Vs. Kabal Singh and another, 2011 (2) RCR (Civil) 886*, where a Division Bench of this Court has held that a co-owner NRI can seek eviction of the tenant in a building though the tenant was not inducted by such NRI and that it is not necessary that all other co-owners should be NRI. This fact has also been considered in *Krishan Kumar's case (supra)* and it has been held that a co-owner can seek eviction from the entire premises.

In the circumstances, the petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

25.05.2016
Pooja sharma-I

(**AJAY TEWARI**)
JUDGE