

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

CR No.1866 of 2017 (O&M)

Date of decision: 27.03.2017

Ram Gopal Verma (since deceased) th. LRsPetitioners

Versus

Anoop Singh ...Respondent

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

Present: Mr.Hemender Goswami, Advocate, for the petitioners.

G.S. SANDHAWALIA, J. (Oral)

The present revision petition, filed by the tenant, under Article 227 of the Constitution of India, is directed against the order dated 20.10.2016 (Annexure P1), whereby the amendment application in the ejectment petition, filed under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (for short, the 'Act') by the landlord, has been allowed, subject to Rs.2000/- as costs.

Counsel for the petitioner has vehemently submitted that by virtue of the said amendment, a change of stance has been taken by alleging that the landlord has got a W1 category work permit in Canada and has also been granted permanent residency status at a subsequent stage, which he did not have on the date of filing of the ejectment petition. Therefore, by virtue of the amendment, he has filled up the lacuna, as such. It is submitted that on account of the fact of not falling under the definition of Section 2(dd) of the Act, leave to contest has been granted on 27.08.2013 (Annexure P3) and CR-5820-2013 had been dismissed as withdrawn on 04.07.2014 (Annexure P4). It is, thus,

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submitted that the tenant, as such, would be gravely prejudiced as the landlord has improved his case by virtue of the said amendment.

A perusal of the paperbook would go on to show that the stand of the respondent, in a petition filed under Section 13-B of the Act, was that he had gone to Canada for an uncertain period on a student VISA and thereafter, had been given a work-permit and had attached copy of the relevant documents. It was his case that he was holding a Indian Passport and working as a worker in Canada. On contest being raised under Section 18-A by the petitioner-tenant, the Rent Controller had noticed that the VISA issued to the landlord was for a specific period, from 23.04.2009 to 30.03.2012 and not for a uncertain period and accordingly, leave to contest was allowed on 27.08.2013.

Resultantly, in the application for amendment dated 22.07.2015 (Annexure P5), the following amendment has been sought:

“a) That in para no.1 of the petition the words starting from 'Initially he went on student Visa' and ending on 'work in Canada' need to be deleted and are required to be replaced by the following words:-

'Initially the petitioner went to Canada on student Visa and the petitioner has since completed his studies long back. The certificate issued by the Institute from the petitioner has completed his studies is attached herewith. Thereafter the petitioner was granted the work permit and as such

he started working as W1 category worker. The copy of the relevant document showing that the petitioner worked as W1 category worker is attached. The plaintiff is holding Indian Passport bearing no.G9554173. The petitioner went to Canada for uncertain period for the purpose of taking up vocation and also for studies. The petitioner had been working as a worker in Canada. However now in view of the stay of the petitioner in Canada and also his work experience the Govt. of Canada has granted the permanent residency status to the petitioner. Therefore now the petitioner is a permanent resident of Canada. However he continues to enjoy the status of being an NRI and his permanent residency in Canada further supports and fortifies his claim that he is an NRI and that he is residing in Canada for an uncertain period and he had also gone to the said country for an uncertain period. The requisite documents showing that the permanent residency status and that has been granted to the petitioner are attached herewith.”

A perusal of the above-said would go on to show that during the pendency of the eviction petition, subsequent events have happened whereby the status, as such, of the landlord has changed. The said facts have been sought to be brought on record. It is settled principle that subsequent events can always be brought on record as the Court is to adjudicate on the merits of the case, as has been held in **Mrs. Surinder Kaur Bakshi Vs. M/s Chopra Glass House & others 2013 (3) PLR 142.** It is for the Rent Controller, at the final stage, to see as to what would be the effect of the amendment, as

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such, and whether the landlord would be entitled for the benefit of the NRI status. The same would necessarily be on the basis of the evidence, as such, which also comes on record, especially in view of the fact that leave to contest has been granted. It is also to be noticed that Section 13-B provides that eviction can only be ordered from one of the buildings in question, once in a lifetime and therefore, the landlord would unnecessarily be prejudiced in case the amendment is not allowed, as has been rightly noticed by the Rent Controller. In such circumstances, this Court is of the opinion that since the amendment was sought at the initial stage, as even the witnesses of the landlord had not been examined, the same was justified. Accordingly, keeping in view the principle that liberal view is to be taken on the amendment application, the present revision petition is dismissed.

Needless to say that any observation made herein will not, as such, prejudice the Rent Controller, at the time of the final decision, as to the effect of the amendment and from the date on which it has come into play and whether the entitlement, as such, of the landlord was there, on the date of filing or not, since this question is to be decided on the basis of the pleadings and the evidence which comes on record.

27.03.2017

Sailesh

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No

(G.S. SANDHAWALIA)
JUDGE