

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

104+209+226		
(1)	CR No.2474 of 2015 (O&M)	
M/s Sangam Caterers & another	Versus	Petitioners
Amarjit Singh		...Respondent
(2)	CR No.3325 of 2014 (O&M)	
Rajdeep Singh	Versus	Petitioner
Amarjit Singh		...Respondent
(3)	CR No.3338 of 2014 (O&M)	
Rajdeep Singh	Versus	Petitioner
Amarjit Singh		...Respondent
(4)	CR No.2322 of 2015 (O&M)	
Rajdeep Singh	Versus	Petitioner
Amarjit Singh		...Respondent
(5)	CR No.2363 of 2015 (O&M)	
Rajdeep Singh	Versus	Petitioner
Amarjit Singh		...Respondent
(6)	CR No.2366 of 2015 (O&M)	
Rajdeep Singh	Versus	Petitioner
Amarjit Singh		...Respondent
(7)	CR No.2416 of 2015 (O&M)	
M/s Morpan Diagnostics & Sales House & another	Versus	Petitioners
Amarjit Singh		...Respondent
(8)	CR No.2473 of 2015 (O&M)	
M/s Network (India) & another	Versus	Petitioners
Amarjit Singh		...Respondent

CR-2474-2015 & other connected cases

(9) CR No.2480 of 2015 (O&M)

Peeyush Behl		...Petitioner
	Versus	
Amarjit Singh		...Respondent

(10) CR No.2506 of 2015 (O&M)

M/s R.G.Computers & another		...Petitioners
	Versus	
Amarjit Singh		...Respondent

Date of decision: 08.05.2017

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

Present: Mr.Arun Chandra, Advocate,
Ms.Harjot Kaur, Advocate, for the petitioner(s).

Mr.Sandeep Verma, Advocate,
Mr.Nitin Thathi, Advocate, for the respondent.

G.S. SANDHAWALIA, J. (Oral)

The present judgment shall dispose of 10 revision petitions, bearing CR-2474-2015, 3325, 3338-2014, 2322, 2363, 2366, 2416, 2473, 2480 & 2506-2015, involving common questions of law and facts. However, to dictate orders facts have been taken from CR-2474-2015 titled *M/s Sangam Caterers & another Vs. Amarjit Singh*.

CM-8021-CII-2017 in CR-2474-2015

Application for placing on record letter dated 28.05.2016 (Annexure P9), is allowed, in view of the averments made in the application, duly supported by an affidavit. Said document is taken on record, subject to just exceptions. Office to tag the same at appropriate place.

CM stands disposed of.

Main cases

The petitioners are tenants on the first and second floor of SCO No.483 & 484, Sector 35-C, Chandigarh and are aggrieved against the ejectment orders dated 18.03.2015 (Annexure P1), passed by the Rent Controller, Chandigarh, whereby leave to contest, under Section 18-A of the East Punjab Urban Rent Restriction Act, 1949 (as extended to U.T., Chandigarh), was declined and resultantly, a direction was issued to vacate the premises.

The Rent Controller came to the conclusion that the necessary ingredients of 5 years of ownership were present since the allotment was dated 25.02.1990, in favour of the respondent who was one of the co-owners and the property had been rented out, thereafter. It was, accordingly, held that the respondent-landlord was a Non-Resident Indian, since he had a United States of America Passport. He has averred that he wanted to return to India and wanted the premises for his *bona fide* requirement. It was, in such circumstances, ejectment has been ordered.

It is settled principle that there is a *bona fide* presumption in favour of the NRI landlord that if he want to return to India and the Rent Controller would accept the said averment, as such. However, in the present cases, counsel for the respondent has not been able to dispel this presumption and in view of a triable issue having been raised by the tenants' counsel, by pointing out that vide a similar order dated 18.03.2015, the ground-floor of the building had been got vacated from one Alamjit Singh Maan. The eviction order in rent petition No.455/2013

CR-2474-2015 & other connected cases

has been placed on record in CR-2474-2015 titled *M/s Sangam Carriers & another Vs. Amarjit Singh*. It is, accordingly brought to the notice of this Court that the said premises were then leased out to a liquor vend, after the vacation by the tenant.

As per the information supplied to the petitioner by the Central Public Information Officer, Excise & Taxation Department, one M/s Ohri Steels Pvt. Ltd. has been granted liquor licence in SCO No.483-484, Sector 35-C, Chandigarh qua the Excise policy 2015-16 and similarly, for 2016-17, from 04.04.2016 to 31.03.2017. A perusal of the list of Directors also would go on to show that Parmal Kumar Ohri, Varun Ohri, Renuka Ohri and Vineet Khanna were holding office for the year 2015-16. It is, in such circumstances, it is argued that the *bona fide* requirement is not there and therefore, a triable issue arises in the present cases.

Mr.Verma, on the other hand, submits that the partnership deed had been entered into by the respondent with Mr.Vineet Khanna, who is stated to be one of the Directors. A perusal of the information which was supplied, vide communication dated 28.05.2016 and which has now been placed on record as Annexure P9, would go on to show that Vineet Khanna was the Director for the year 2016-17. The partnership deed which has now been relied upon by the respondent, *prima facie* was for the earlier year, from 15.04.2015, when Vineet Khanna was not a Director and therefore, the defence taken that the respondent-landlord was entitled to 50% of the profits in M/s Ohri Steels Pvt. Ltd. and therefore, the property was being utilized by him, thus, will have to be

CR-2474-2015 & other connected cases

gone into, on the basis of the evidence and accordingly, in the opinion of this Court, a triable issue, as such, has been raised, as the *bona fides* of personal necessity have been rightly doubted.

Resultantly, keeping in view the judgment of the Apex Court in '*Precision Steel and Engineering Vs. Prem Deva Niranjana Deva Tayal*' 1983 (1) SCR 498, in which it has been held that only the affidavit of the tenant has to be taken into consideration and if triable issue is made out, it would be obligatory to grant leave and the plausibility of the defence is not to be taken into consideration. Accordingly, this Court is of the opinion that once a triable issue is raised, the order passed by the Rent Controller, declining leave to contest, is not justified.

Accordingly, the present revision petitions are allowed, the orders passed by the Rent Controller dated 18.03.2015 are set aside, leave to contest is granted and the tenants are allowed to file written statements. Keeping in view the fact that the petitions are under Section 13-B, the Rent Controller shall keep in mind the fact that the petitions have been filed in the year 2013 and try to decide the cases, expeditiously, preferably within a year from the date of entrustment. The District Judge shall also ensure that all the petitions are entrusted to one Rent Controller, to avoid contradictory findings.

08.05.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: Yes