

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 2436 of 2017 (O & M)

Date of decision: 05.04.2017

Chaman Lal

....Petitioner(s)

Versus

Amarjit Kaur

...Respondent(s)

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

Present: Mr. Rahul Rampal, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The tenant challenges the order passed by the Rent Controller whereby, the application under Order 6 Rule 17 CPC has been allowed and the landlord has been permitted to convert the petition under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (in short 'the Act') under Section 13 of the Act. The reasoning which weighed with the Rent Controller, Ludhiana was that the case is at the initial stage. The application for leave to contest was still pending and, therefore, before framing of issues, it would not cause prejudice to the defendants. The basic principle that the procedural law is a handmaid of justice was kept in mind while allowing the application while placing reliance upon the judgments of this Court in *Rajinder Mohan v. Purshottam Lal Goyal, 2011(2) CCC 45; Baljeet v. Ajit Singh and others, 2014(1) RCR (Civil) 871* and *Rajwant Kaur v. Davinder Singh and others, 2011 (2) CCC 357*.

Counsel for the petitioner has vehemently submitted that an application under Order 7 Rule 11 CPC for rejection of the plaint had been

filed on the ground that the necessary ownership of five years was not present and, therefore, the petition under Section 13-B of the Act was not maintainable and she was not an NRI and faced with the situation, the application for amendment had been filed which has been wrongly allowed by the Rent Controller.

The said argument is only to be noticed and rejected. The right of the landlord as such to file a petition under Section 13 of the Act on the ground of personal requirement under Section 13(3) of the Act still would remain even if her right under Section 13-B of the Act under summary procedure was not there. Even if the application was rejected and the eviction petition under Section 13-B of the Act was dismissed, the landlady could always have filed a petition under Section 13(3) of the Act on the ground of personal necessity. In such circumstances, to avoid multiplicity of the proceedings, the Rent Controller has rightly allowed the application for amendment. Rather, the tenant, in a manner, would have a right of appeal as such which would not have been there if eviction is ordered under Section 13-B of the Act. Therefore, no fault can be found in the order passed by the Rent Controller and the present revision petition is accordingly dismissed in limine.

05.04.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No