

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.3318 of 2011 (O&M)

Date of decision: 24.05.2017

Tirath Singh through General Power of Attorney Jagjit Singh

....Petitioner

Versus

Amarjit Singh

...Respondent

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

Present: Mr.Sandeep Jain, Advocate, for the petitioner.

Mr.Nitish Garg, Advocate, for the respondent.

G.S. SANDHAWALIA, J. (Oral)

The petitioner-landlord challenges the order dated 09.03.2011 whereby leave to contest has been allowed to the respondent-tenant, mainly on the ground that the landlord is not the owner of the property in dispute and the NRI status of the petitioner is also disputed. Another ground which, in the considered opinion of this Court would be a valid ground to grant leave to contest is that the factum of earlier litigation between the parties was not disclosed and therefore, the leave granted by the Rent Controller, Shaheed Bhagat Singh Nagar, deserves to be upheld.

A perusal of the impugned order would go on to show that the petition under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (for short, the 'Act') was instituted on 05.04.2007. Counsel for the respondent has pointed out that on an earlier occasion, petition under Section 13(3) of the Act had been filed *inter se* the parties, which was dismissed on 20.09.2004. The said order was upheld in appeal vide order dated 19.09.2005, by the Appellate Authority.

Counsel for the respondent has rightly placed reliance upon ***Hans Raj Vs. Malkiat Kaur 2009 (2) RCR (Rent) 667*** wherein it has been

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held that if a triable issue is raised, then the Rent Controller ought to grant leave to contest. Accordingly, the order declining leave to contest had been set aside by noticing that there was earlier dismissal of petition filed under Section 13 of the Act and therefore, justified the grant of leave to contest.

Resultantly, the order passed by the Rent Controller, cannot be faulted with as the *bona fides* of the landlord had been doubted on an earlier occasion and therefore, a triable issue, as such, does arise.

Accordingly, the present revision petition is dismissed. However, since the petition under Section 13-B was instituted on 05.04.2007, the Rent Controller, Shaheed Bhagat Singh Nagar shall decide the proceedings by 31.12.2018.

24.05.2017

Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*