

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

Civil Revision No.3543 of 2015(O&M)

Date of decision: 03.05.2017

The Chief Architect, Haryana and others

...Petitioners

Versus

Dr. Viranmol Singh Toor and others

...Respondents

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

Present: Mr. Manoj Dhankar, Assistant Advocate General, Haryana
for the petitioners.

Mr. A.S.Grewal, Advocate and
Mr. Deepanjay Sharma, Advocate for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The State is in revision against the order dated 18.2.2015 passed by the Rent Controller, Chandigarh whereby application for leave to contest filed under section 18-A of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as “the Act”) has been declined and resultantly eviction order has been passed keeping in view of the Full Bench judgment in *Anwar Ali Vs. Gian Kaur 2001(2) RCR (Rent) 604*.

The case of the respondents-landlords was that they were owners on account of allotment letter dated 11.7.1968 and conveyance deed dated 23.4.1971 and being NRIs had left India more than 20 years back and were residing abroad in Canada and England. The concerned Departments of State of Haryana were inducted as tenant by Smt. Surjeet Toor, who was none else but the mother of respondent no.1. She had leased out the property vide lease/rent deed dated 8.11.2005 for a period of 11 months at the rate of ₹ 33,750/- and resultantly on account of non vacation, eviction was sought on the ground that premises were to be used for running a

hospital in the whole of the building which would be joint venture of the family. The other tenants of the said building had also been proceeded against and therefore being owners of more than 5 years before the institution of the eviction petition which was instituted on 16.8.2011, the possession was sought.

The Rent Controller, Chandigarh has rightly rejected the objection that Smt. Surjeet Toor had rented out the premises and therefore triable issue arose in view of the observations made by the Division Bench in ***Smt. Bachan Kaur Vs. Kabul Singh and another 2011(1) RCR (Rent) 368*** wherein it has held that if property is let out by some one else on behalf of a NRI landlord instead of letting out by the landlord himself, it would amount to letting out by the NRI landlord and no triable issue as such would arise on this account. Respondents are none else but the legal heirs of Smt. Surjeet Toor.

It is to be noticed that they were born in India and are holding Canadian, United Kingdom of Great Britain and North Ireland passports and thus are of Indian origin and have shown intention to return to India, therefore, they would be covered under the definition of Section 2(dd) of the Act. Resultantly, keeping in view the observations of the Apex Court in ***Baldev Singh Bajwa vs. Monish Saini, 2005 (4) RCR (Civil) 492***, that there is a presumption in favour of the NRI-landlords, the eviction order has been rightly passed.

The said order could not be dented by the counsel for the State in any manner since it fulfills all the necessary ingredients which had been laid down by the Apex Court by in ***Baldev Singh Bajwa's case (supra)*** which has been further followed by the Apex Court by a Three Judge Bench

in *Swami Nath vs. Nirmal Singh, 2010 (2) RCR 388* and in *Kamaljit Singh Vs. Sarabjit Singh 2014 (4) PLR 828*.

The argument that the premises in question cannot be used for the purpose of hospital and can only be used for the office is not an issue as such which would require consideration by the Rent Controller. That is for the landlords as such to take necessary permission from the authorities concerned in case they want to do a particular type of business especially of a hospital and the tenant cannot as such question the said purpose and hold out that a triable issue arises.

Resultantly, the findings recorded by the Rent Controller, Chandigarh vide impugned order dated 18.2.2015 do not suffer from any infirmity or illegality and no triable issue is made out which would warrant interference by this Court.

Accordingly, the present revision petition is dismissed.

Keeping in view the fact that the premises are being used for the purposes of running the office of the Director of Scheduled Caste and Backward Classes, Haryana, the petitioners shall be entitled to retain possession of the premises in question for a period of three months i.e. upto 31.7.2017.

May 03, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No