

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

Civil Revision No.4726 of 2015 (O&M)

Sham Lal @ Billa and another

... Petitioners

Versus

Baldev Kaur Singh

... Respondent

(2)

Civil Revision No.4727 of 2015 (O&M)

Sham Lal @ Billa and others

... Petitioners

Versus

Baldev Kaur Singh

... Respondent

(3)

Civil Revision No.4728 of 2015 (O&M)

Sonu Wadhwa

... Petitioner

Versus

Baldev Kaur Singh

... Respondent

Decided on : 11.05.2017

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

Present : Mr. Puneet Jindal, Senior Advocate with
Ms. Neha A. Mahajan, Advocate for the petitioners.

Mr. Tribhawan Singla, Advocate
for the respondent.

G.S. Sandhawalia, J. (Oral)

The present order shall dispose of three revision petitions
i.e. ***Civil Revision Nos.4726, 4727 and 4728 of 2015.***

The petitioners in the present set of cases are aggrieved against the order of eviction passed by the Rent Controller, Nakodar on 25.05.2015 (Annexure P-4), whereby the petitions under Section 13-B of East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the 1949 Act') have been allowed in favour of the respondent-landlord while declining the application under Section 18-A of the 1949 Act for leave to contest.

The petitions have been filed under the 1949 Act on 16.12.2013 (Annexure P-1), which has been repealed since the Punjab Rent Act, 1995 (hereinafter referred to as 'the 1995 Act') has come into force on 30.11.2013.

Senior counsel for the petitioners has raised a legal issue to which Mr. Tribhawan Singla, counsel for the respondent could only counter the said argument by submitting that the same was never raised before the Rent Controller and therefore, now he cannot be allowed to raise it for the first time before this Court.

The said issue being a legal issue goes to root of the matter as the petitions itself were filed on 16.12.2013 (Annexure P-1) after coming into force of the 1995 Act, and therefore, the petition was not maintainable under the 1949 Act, which stood repealed. A coordinate Bench in ***Krishan Kumar Vs. Kamla Devi 2016 (1) R.C.R. (Rent) 525***

has dealt with the provisions of both the Acts *inter se* and held in view of the fact that the landlords who filed petitions after the coming into force of the 1995 Act could be permitted to amend the petitions as certain benefits were given to the tenants also under the said Act. The relevant paragraph reads as under:-

“In my considered opinion the provisions of the 1995 Act as detailed above, are to say the least, confusing. In view of the anomalous position a landlord can not be blamed for not having understood the true import and the interplay between the two Acts. In this situation the only equitable decision on this aspect can be that those NRIs-Landlords who filed petitions after the coming into force of the 1995 Act and made the averments required under the said Act would be entitled to file formal applications for amendment of number of the Section and the title of the Act mentioned therein. However, these tenants would be entitled to the statutory benefits conferred by the 1995 Act in so much as they would have the right to file an application for review against the order declining leave to defend as well as the right to file an appeal against an order of eviction. Such landlords who have not made the necessary averments required by [Section 24](#) of the 1995 Act would however have to be non-suited though they would have the right to file fresh petitions conforming to the requirements of the 1995 Act.

*Moreover once it is held that the 1995 Act is applicable, it would be incumbent upon the Rent Controller to first pass an order on the application for leave to defend and after allowing the aggrieved party time to file a review application, then pass a separate final order. It has been argued that a Full Bench of this Court in **Anwar Ali Vs. Gian Kaur, 2011 Vol.2 RCR (Rent), 604** had laid down that in the case of NRIs the order of eviction is a*

consequential order to an order declining leave to defend. However that ruling came on an analysis of the Act of 1949 and would not be applicable to proceedings under the 1995 Act for the reason that now a provision has been made for filing a review against the order declining an application for leave to defend.”

The said view has been further upheld by the Apex Court whereby it dismissed two appeals i.e. **SLP Nos.15366 and 15367 of 2016**, which arose out of the judgment in *Krishan Kumar's case (supra)* on 11.01.2017.

Accordingly, keeping in view the above observations, this Court is of the opinion that the impugned order dated 25.05.2015 (Annexure P-4) passed by the Rent Controller, Nakodar cannot sustain and the matter has to be remanded back for fresh consideration for filing of amended petition by the respondent/landlord.

Accordingly, impugned order dated 25.05.2015 (Annexure P-4) passed by the Rent Controller, Nakodar is set aside with liberty to respondent/landlord to take appropriate steps in accordance with law.

The parties are directed to appear on 31.05.2017 before the Rent Controller, Nakodar, for further proceedings.

With the aforesaid observations, the present revision petitions are disposed off.

MAY 11, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No