

CR No.5761 of 2015

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

Date of decision: 04.08.2017

CR No.5761 of 2015

Randhir Singh

...Petitioner

Vs.

Ranjodh Singh Mudhar & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. M.S.Sachdev, Advocate, for the petitioner.

Mr. P.S.Jammu, Advocate, for respondent No.1.

Mr. Varun Sharma, Advocate, for respondent No.2.

RAJIV NARAIN RAINA, J. (ORAL)

The Punjab Rent Act, 1995 (for short 'the 1995 Act') has been enforced by the Government of Punjab with effect from 30.11.2013 by notification resulting in the abolition of Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the 1949 Act'). Non Resident Indian cases filed prior to 30.11.2013 are saved by virtue of the saving clause in the 1995 Act and they would be dealt with under the old law. After 30.11.2013, the Rent Controllers would have no jurisdiction to entertain the cases of NRIs under the old Act of 1949. In this case, the respondent – NRI filed the eviction petition against the petitioning tenant on 17.12.2014 invoking the special provisions of Section 13-B of the old Act.

It is argued on behalf of the petitioner - tenant that the petition itself was not maintainable and any orders passed therein are a nullity because the Rent Controller had lost jurisdiction and authority over cases

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involving the special provisions of the old Act after the 1995 Act was brought into force.

However, the learned Rent Controller disregarding the legal provision proceeded to dispose of the case on merits and allowed the eviction petition after declining the application filed by the petitioner - respondent under Section 18-A of the 1949 Act for leave to defend the petition. As a result, the petitioner – tenant exposed to imminent eviction, approached this Court by way of the present revision.

Pending the present proceedings, the petitioner moved CM No.19666-CII of 2015 to take an additional ground of challenge on jurisdiction and maintainability of the eviction application in the present revision. However, such application was not pressed at that time since it was a legal objection which was not required to be incorporated by amendment of grounds of revision as the jurisdictional plea could always be argued at any stage of the proceedings. By order dated 18.12.2015, status quo, as regards possession was ordered to be maintained subject to deposit of entire arrears of rent, if any, within a period of two weeks from the date of order and with direction to continue deposit of future rent by the 7th day of every month and in the event of even a single default, the stay order shall automatically stand vacated and the respondents shall be free to execute the order of eviction. The petitioner submits that he is not in default of the order.

Heard learned counsel on the maintainability of the rent petition. There can hardly be any doubt that the ejectment petition was filed one year after coming into force of the 1995 Act and would be assumed to be aware that the provisions of Section 13-B of the old Act were no longer

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available, therefore, the petition was not maintainable as the Rent Controller had lost jurisdiction to decide the case. Accordingly, the order passed is also a nullity and is so declared by this order.

As a result of the above, the petition is allowed. The impugned order is set aside. However, liberty is granted to the respondent-landlord to take recourse to law in case he proposes to approach the Rent Authority to seek eviction of the tenant in accordance with law, if advised.

04.08.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>