

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

**Civil Revision No.7721 of 2015 (O&M)
Decided on : 09.05.2017**

Gurmit Singh @ Bittu and another

... Petitioners

Versus

Amarjit Kaur and another

... Respondents

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

Present : Mr. Nitin Thatai, Advocate
for the petitioners.

Mr. Ashish Aggarwal, Senior Advocate with
Mr. Govind Chauhan, Advocate for the respondents.

G.S. Sandhawalia, J. (Oral)

The present revision petition is directed against the order of the Rent Controller, Ludhiana dated 19.10.2015, whereby leave to contest under Section 18-A of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the Act') has been declined on the ground that no triable issue is made out.

Strangely, in spite of that the Rent Controller has failed to pass the order of eviction, though it was ordained to do so, in view of the Full Bench judgment passed in '*Anwar Ali Vs. Gian Kaur 2011 (2) RCR (Rent) 604*'. Even otherwise the order on the face of it, would not be justified, since the Rent Controller has failed to take into consideration that the respondent-landlords are subsequent purchasers from the L.Rs. of one Puran Kaur.

A perusal of the paper-book would go on to show that a suit for permanent injunction was filed against Kamaljit Singh and Amarjit Singh sons of Puran Kaur by the petitioners-tenant on 30.04.2007. An application

under Order 1 Rule 10 CPC came to be filed in the said suit, on account of the fact that the respondents had purchased the property on 22.04.2009. The stand taken by the respondents was that the petitioners-plaintiffs are in unauthorized possession of the suit land. Resultantly, the application was, thereafter, allowed and they were impleaded as defendants No.3 and 4.

The stand taken by the said defendants in the written statement was that the plaintiffs are licencees and they are not tenants under Puran Kaur, who was the landlady, wherein the allegations were of the petitioners that they were the tenants under Puran Kaur. The relationship of tenancy as such was denied by the respondents themselves.

Eventually, the suit was decreed on 26.08.2015 (Annexure P-7) on the ground that the petitioners were in possession and a statement had been given at that point of time before the Civil Court that the proceedings would initiated and possession would be taken in accordance with law. The ejectment petition in the meantime had been filed on 13.07.2015 (Annexure P-1), on the ground that the respondents were NRIs and, therefore, they were entitled for summary eviction.

The said plea has been rejected hook line and sinker by the Court without appreciating the background that the petitioners are subsequent purchasers. The fact remains that the property is not inherited by them and necessarily, this Court is of the opinion that, in such a case a triable issue has arisen, on the basis of the application, which was filed

under Section 18-A. Merely because the petitioners were owners for more than five years from filing of the petition, would not as such grant them a case of a walk over and summary eviction could not be ordered.

In view of the facts discussed above, triable issues would arise, in view of the contradictory stands taken at various stages regarding the status of possession of the petitioner by the respondents themselves. All these facts were delineated in the application under Section 18-A in paragraph (ii), but unfortunately the Rent Controller has failed to consider the same in the proper perspective. The Apex Court in ***'Precision Steel & Engineering Works and another Vs. Prem Deva Niranjana Deva Tayal'*** 1983 (1) SCR 498 has held that where triable issues are raised on affidavit by the tenant, the leave to contest is to be granted.

In such circumstances, the impugned order dated 19.10.2015 passed by the Rent Controller is not justified and is, accordingly, set aside. Accordingly, the leave to contest is granted and the present revision petition stands allowed. The petitioners are held entitled to file their written statement.

Keeping in view the fact that the petition is under Section 13-B of the Act, the Rent Controller shall take appropriate steps for expeditious disposal.

MAY 09, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No