

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

214

CR No.8730 of 2014
Decided on : 07.03.2017

Satinder Singh Arora

... Petitioner

Versus

Satya Devi and others

.. Respondents

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

Present:- Mr.Divanshu Jain, Advocate
for the petitioner.

Mr.V.M.Gupta, Advocate
for the respondents.

G.S.Sandhawalia, J. (Oral)

The landlord challenges the order dated 11.11.2014, passed by the Rent Controller, Chandigarh, whereby the Rent Controller granted leave to contest on an application filed under Section 18-A (4) (5) of the East Punjab Urban Rent Restriction Act, 1949 (for short the 'Act') as extended to Chandigarh.

The reasoning which weighed with the Rent Controller, was that there were triable issues involved and the petition having been filed under special provisions of Section 13-B of the Act, would require adjudication especially since the petitioner was working in the Merchant Navy. Whether merely, going aboard for few months and returning back after expiry of his employment term, would bring him under the definition of Non Resident Indian (in short -NRI) as defined under the Act.

A perusal of the paper book would go on to show that the petition was filed on the ground that the petitioner was serving as Chief Engineer in the Shipping Company of Hong Kong since 2009. He had attached photocopy of the Passport with relevant documents, Visa etc., and thus, claimed that he was a NRI as per the definition contained under Section 2(dd). He claimed that he was co-owner of the property described as SCO No.30-31, Sector 28-C, Chandigarh, and therefore, sought summary eviction on the ground that working with the Shipping Company i.e. Fleet Management as Chief Engineer for the last two years with the Head Office at Hong Kong, entitled him for the said benefit. It had been claimed that he had earlier worked for the said Fleet Management and he had been serving with the other foreign companies since 1983. He had been staying abroad and had been serving various foreign Shipping Companies and coming to Chandigarh only for brief periods. The other family members were stated to be residing with his father-in-law in House No.1132 Sector 8C, Chandigarh. It is not disputed that father-in-law is in possession of the ground floor and dispute is only regarding the second floor of the premises in question.

The application to leave to contest under Section 18-A, was filed by the respondent-tenant giving details of the passport entries whereby the landlord had visited various places, and objections were raised that there was visitor visa and the visits were for social purposes. The appointment letters were also alleged to be for short tenure of four months plus one month as per company's discretion. Further allegations

were raised that the petitioner and his family members are residing in residential House No.1132, Sector 8C, Chandigarh and therefore, the need was not bonafide and was only a desire that the premises were to be got vacated at any cost.

In reply, the petitioner further controverted the allegation that the visits on certain occasions were social visits but the appointment letter showed that the petitioner was a NRI and was working in a Shipping Company at Hong Kong. Counsel for the petitioner has further submitted that the additional documents by way of application were placed on record which have not been adverted to, by the Rent Controller while granting the leave.

Perusal of the application would also go on to show that the accounts books showing NRE accounts of the year 2003-04, and certificates issued by the State Bank of India etc. indicating the payment of salary in British Pounds and USA Dollars, had also been placed on record.

The argument that the order was non-speaking as such, does not accept much merit to this Court keeping in view the fact that leave to contest is liable to be granted, if triable issues are made out. Keeping in view the nature of employment, as such, certainly, a triable issue was raised as to whether the petitioner would fall within the definition of 2(dd) and the Rent Controller rightly granted leave to contest. It is only by way of evidence, the petitioner will be able to substantiate if he would fall within the definition of 2(dd) and he would have to place on record

material to show that for what period he remained abroad during his employment with any shipping company. Rather in the absence of such material, the eviction order in a summary manner would have given a good cause for the tenant to come to this Court again. It would thus be necessary for the Rent Controller to discuss documents which have been placed on record to arrive at the said conclusion as whether the case of the petitioner would bring himself within the ambit of NRI, as defined in the Act. Resultantly, there is no merit in the present revision petition and the same is dismissed.

However, keeping in view the fact that the proceedings have been stayed for the last two years and the petition under section 13-B had been filed in 2011, it would be appropriate that the Rent Controller, Chandigarh would decide the same by 31.03.2018.

[G.S.Sandhawalia]
Judge

07.03.2017

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No