

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

**C.R NO. 1078 OF 2018 (O&M)
DECIDED ON : 17.02.2018**

Rajneesh Gaba

...Petitioner

versus

Davinder Kumar

...Respondent

CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Abhimanyu Kalsy, Advocate,
for the petitioner.

ANUPINDER SINGH GREWAL, J. (ORAL)

This petition is directed against the order dated 30.11.2017 passed by the Rent Controller, Ludhiana, whereby application of the petitioner under Order 6 Rule 17 read with Section 151 of the Code of Civil Procedure, was dismissed.

The petitioner is stated to be tenant of the premises and the respondent had sought his eviction by preferring a petition under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949. The respondent is stated to be a Non-Resident Indian and he had subsequently sought amendment of the petition to the effect that in the head note of the petition the words "U/S 13-B of East Punjab Rent Restriction Act, 1949" should be deleted and in its place the words "24 (3) of the Punjab Rent Act, 1995" should be written. This amendment has also

been sought in other paragraphs of the petition. He has also sought another amendment that in para no.2 of page No.4 of the rent petition, after completion of ninth line, after the word "approximately" :- "that the petitioner has returned to India permanently" be added. The Rent Controller while allowing the application has relied upon the judgment of co-ordinate Bench of this Court in the case of "**Krishan Kumar and others v. Kamla Devi and others**" **2016 (1) RCR (Rent) 525**, wherein in para 82 it has been held 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".

In view of the above, I do not find any infirmity in the order passed by the Rent Controller while allowing the amendment. The order is in consonance with the judgment in ***Krishan Kumar and others v. Kamla Devi and others' case (supra)*** Consequently, the petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

FEBRUARY 17, 2018
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1. Whether speaking/reasoned : YES/NO
2. Whether reasoned : YES/NO