

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

-.-

CR 1627 of 2018 (O&M)

Date of decision: 25.04.2018

Ram Singh (since deceased) through LRs

..... Petitioner

Versus

SSD Sabha (Regd) through Manager

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Rohit Kumar, Advocate
for the petitioner

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Rekha Mittal, J. (Oral)

The present petition directs challenge against the order dated 16.02.2018 (Annexure P7) passed by the Rent Controller, Bathinda whereby application dated 16.02.2018 (Annexure P6) for rejection of eviction application for want of jurisdiction has been dismissed.

The sole submission made by Counsel for the petitioner/tenant (since deceased) represented by his legal representative(s) is that as the respondent/landlord is a religious institution as defined in Section 2 (d) of the Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 (in short, 'the Act') and the respondent can invoke the provisions of the Act for eviction of unauthorized persons under Section 5 of the Act coupled with that Section 12 of the Act debars the jurisdiction of a Court to entertain any suit or proceedings in respect of eviction of any person who is in unauthorized occupation of any religious premises, the application for eviction under Section 13 of the East Punjab Urban Rent Restriction Act,

1949 filed before the Rent Controller, Bathinda is not maintainable. In support of his contention, he has relied upon judgment of this Court in LPA 770 of 2015, decided on May 19, 2015 titled '*Gurmej Singh vs. The Commissioner, Jalandhar Division and another*'.

I have heard counsel for the petitioner and perused the paper book particularly the order impugned.

The controversy raised in the present petition is squarely covered against the petitioner by the judgments of this Court ***Jai Parkash Goyal vs. Shri Gurudwara Singh Sabha Virajman Gurugranth Sahib, Kukarmajra and another*** (CR 4423 of 2006, decided on 07.05.2009) and ***Baldev Singh vs. Shree Sanatan Dharam Sabha and another*** along with connected case (CR 1884 of 2017, decided on 22.03.2017).

A relevant extract from the judgment in *Jai Parkash Goyal's* case (supra) reads thus:-

“8. The point, if at all, could be whether a landlord would be entitled to pursue both before the Rent Controller and before the Authority constituted under the Act of 1998. I have already referred to the fact that the counsel for the petitioner has made a statement giving up his right to prosecute before the competent authority under the Act and that he was pursuing the remedy only before the Rent Controller and the Authorities constituted under the Rent Restriction Act. Section 12 could not have operated at the time when the petition was filed in view of the stay of operation of the Act, but even if the eclipse that it might have caused has been subsequently removed, still the remedy under the Act itself is not completely wiped out. The Act itself does not contain any provisions with reference to abatement of proceedings taken before the Rent Controller.

Section 12 only refers to the bar of proceedings against unauthorized occupants of any religious premises. The definition of “the person in unauthorized occupation” cannot be imported into the East Punjab Urban Rent Restriction Act, which does not treat a tenant as an unauthorized occupant and regards him only as a statutory tenant. The provisions of the East Punjab Urban Rent Restriction Act and the Act 4 of 1998 must, in my view, be so considered that the latter Act should be seen as a facilitative enactment for the benefit of the landlord against unauthorized occupants and not a piece of legislation granting any privilege to a tenant to plead that the action for ejectment must be made only by treating the tenant as an unauthorized occupant under Act 4 of 1998 and not under the Rent Control Act. The assumption of jurisdiction and the orders passed by the Authorities constituted under the East Punjab Urban Rent Restriction Act is, therefore, upheld.”

In *Gurmej Singh's case (supra)*, challenge was laid against eviction order passed in respect of a religious premises comprising agricultural land and taking into consideration the provisions of the Act, the writ petition filed by Gurmej Singh, a lessee in respect of land measuring 25 kanal 12 marlas situated in Village Vallah, District Amritsar owned by Gurdwara Kotha Sahib, the management of which vests in Siromani Gurudwara Parbandak Committee (for short, SGPC) was dismissed by the Single Bench and Letters Patent Appeal filed against order dated 29.01.2015 dismissing the writ petition was also dismissed by the Division Bench. It was not the controversy before the Division Bench, if a religious institution can or cannot maintain an eviction application under the Rent Act against its tenant who has become a statutory tenant on expiry of lease period. In this

view of the matter, judgment in Gurmej Singh's case (supra) has no bearing on the present controversy.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

No order as to costs.

(Rekha Mittal)
Judge

25.04.2018
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No