

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

Date of decision: 05.07.2018

CR No.2412 of 2015 (O&M)

DWARKA DASS

... Petitioner

Versus

SURJIT KAUR

... Respondent

CR No.2413 of 2015 (O&M)

HIND PAL SETHI

... Petitioner

Versus

SURJIT KAUR

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Vikas Bahl, Sr. Advocate with
Mr. Nitish Garg, Advocate and
Ms. Aarzoo B. Grewal, Advocate
for the petitioner.

Mr. Parminder Singh, Advocate
for the respondent.

REKHA MITTAL, J. (Oral)

This order will dispose of CR Nos.2412 and 2413 of 2015 as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from CR No.2412 of 2015.

Counsel for the petitioner would argue that Surjit Kaur, wife of late Sh. Pritam Singh respondent filed application for eviction, by invoking

Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (in short 'the Act'). The petitioner/tenant filed an application for leave to contest which was dismissed by the Rent Controller but the order passed by the Rent Controller was set aside by this Court and application for leave to contest was allowed. On the basis of evidence adduced by the parties in support of their respective claims, the Rent Controller passed eviction order dated 18.02.2015, impugned in the present petition.

The first submission made by counsel for the petitioner is that though the Rent Controller in para 17 of the order has reproduced definition of NRI Landlord under Section 2(dd) of the Act but the Rent Controller has not adverted to the question whether the respondent fulfills the requirements of Section 2(dd) of the Act. It is argued with vehemence that though the petitioner has raised various issues to assail the impugned order but the order is liable to be set aside on this score alone.

Counsel for the respondent, on the contrary, would urge that the Rent Controller has noticed the facts pleaded by the respondent/land lady, the factum of her having produced passport Ex.A2 and definition of NRI under Section 2(dd) of the Act and thereafter proceeded to decide the eviction application in favour of the respondent. However, he is unable to point out any findings recorded by the Rent Controller whereby it has been held that Surjit Kaur satisfies the requirements of Section 2(dd) of the Act or to say that she is a NRI landlady. In this view of the matter, I find merit in contention of the petitioner that the eviction order is liable to be set aside

on the score that the Rent Controller has not decided the question 'whether the respondent is a NRI landlady or otherwise' and the matter is liable to be remitted to the Rent Controller for deciding the said question.

For the foregoing reasons, the petitions are allowed. The impugned orders are set aside to the aforesaid extent and the matter is remitted to the Rent Controller for deciding the question 'whether the respondent falls within the purview and ambit of NRI defined in Section 2 (dd) of the Act'. The fresh exercise by the Rent Controller would be limited to the issue of respondent being NRI or otherwise. In case, the question of respondent being NRI is decided in favour of the respondent and against the petitioner, the petitioner would be at liberty to challenge the fresh order as well as the impugned order and raise all available pleas including the ones raised in the present petition. It is further clarified that in case the issue of NRI is decided against the respondent and she files a revision petition, the petitioner shall be at liberty to file separate petition to challenge other findings recorded in the impugned order. The parties through their counsel are directed to appear before the Rent Controller, Jalandhar on 07.08.2018.

05.07.2018
ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No