

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 20 of 2018

Date of Decision: 09.01.2018

Nirmal Kumar

...Petitioner

VERSUS

Ganga Devi and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Roopak Bansal, Advocate
for the petitioner.

SURINDER GUPTA, J.

This is revision against order dated 01.12.2017 passed by learned Rent Controller whereby application filed by petitioner (respondent no. 1 in petition before the Rent Controller) seeking framing of additional issues, was partly allowed.

The petitioner sought framing of following additional issues by the learned Rent Controller:-

- (i) Whether the present petition is premature as per rent receipt issued by Ram Dayal Mittal husband and father of petitioners no. 1 and 2 to 5 and is liable to be dismissed? OPR
- (ii) Whether the petition is liable to be dismissed on account of misjoinder of parties? OPR
- (iii) Whether the petition is liable to be dismissed as the mandatory ingredient of Section 13 of East Punjab Urban Rent Restriction Act is not fulfilled? OPR

Learned Rent Controller partly allowed the petition and framed

issue as to whether the present petition is liable to be dismissed on account of misjoinder of parties as issue no. 3-A but declined the prayer of petitioner to frame the other two additional issues with the observation as follows:-

“.....as per the rent receipt issued by Ram Dayal Mittal, husband and father of petitioner no. 1 and 2 to 5 respectively and it is mentioned in the said receipt while collecting cheque no. 390035 dated 07.08.2003 with regard to the rent of the demised premises for the period from November 2002 to August 2003 that the tenancy was extended for a period of 20 years on the same rate of rent. But despite taking this specific plea, there is no necessity to frame the specific issue in that regard, as the present petition for eviction of respondents, besides the other grounds, has also been filed on the ground of non payment of arrears of rent and this fact can be proved under already framed issue no. 3 to the effect that “present petition is not maintainable.”

Regarding issue no. 3 as sought to be framed as additional issue, learned counsel for the petitioner admits that the issue has already been framed that the petition filed by landlord is not maintainable. The issue already framed covers issue no. 3 sought to be framed as additional issue. The issue of maintainability of petition covers the plea as to whether the petition is liable to be dismissed as mandatory ingredients of Section 13 of the East Punjab Urban Rent Restriction Act is not fulfilled. Learned counsel for the petitioner while relying on observations of Hon'ble Apex Court in case of **Makhan Lal Bangal vs. Manas Bhunia and others, 2001 (2) SCC 652** and observations of this Court in case of **Gurbaj Singh vs. Parshotam**

Singh and others, 2011 (4) RCR (Civil) 518 has argued that when there is specific plea the issue should have been framed by learned Rent Controller.

In this case proper issues regarding non-payment of arrears of rent and maintainability of petition have already been framed by learned Rent Controller. The plea of petitioner to frame the issue that petition is bad for misjoinder of necessary parties, has also been accepted. The mere fact that while issuing the receipt (Annexure P-3), Ram Dayal Mittal, husband of petitioner no. 1 and father of remaining petitioners, had incorporated a line in receipt that tenancy is further extended on the same rate of rent does not mean that respondent-landlord is debarred from seeking ejectment of petitioner on any ground as provided in the East Punjab Urban Rent Restriction Act, including non-payment of rent. Even otherwise Annexure P-3 is not a registered document and it is to be seen by Rent Controller at the time of final disposal of petition as to whether any term mentioned therein is binding on the parties?

Keeping in view above facts, I find no merit in the instant revision and the same is dismissed.

January 09, 2018

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No