

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

CR No.2480 of 2016

with

CM Nos.13647-48-CII of 2016,
CM Nos.7234-35-CII of 2016 &
CM Nos.6303-04-CII of 2017

Date of Decision: November 15, 2018

Ashok Kumar

..... Petitioner

Versus

Sukhdev Singh Mullay & Anr.

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. V.K.Sandhir, Advocate for the Petitioner.

Mr. Anil Chawla, Advocate for the Respondents.

SUDIP AHLUWALIA, J.

This Revisional Application is directed against the Order passed by Ld. Rent Controller, Amritsar dated 8.2.2016, whereby the application to contest and leave to defend the Eviction Petition filed by the Respondent No.1 was dismissed, and the Ejectment Petition filed by the Landlord/Respondent Sukhdev Singh was allowed.

2. The Rent Application under Section 13-B of East Punjab Urban Rent Restriction Act, 1949 was filed on 31.10.2014 i.e. after coming into existence of the Act, 1995 and as such the Petition u/s 13-B of the Repealed Act could not have been filed. The said Act was passed by the Legislature in the year 1995, but it came into force with effect from 13.11.2013, and it was

clarified therein that provisions of the said Act would not apply to any premises let out before commencement of the Act, meaning thereby that even if the premises were owned by a NRI and were let out before commencement of the Act, they would have to be dealt with the Act, 1949.

3. A Coordinate Bench of this Court in a bunch of cases (led by **CR No.3509 of 2014 'Krishan Kumar Vs. Kamla Devi' decided on 9.5.2016**) had considered the case of those NRIs/Landlords who filed the Eviction Petitions after coming into force of the 1995 Act and made the averments required under the said Act, and held them to be entitled to file formal applications for amendment of number of the Sections and title of the Act mentioned in their petitions. However, the Tenants in such cases would be entitled to the Statutory benefits conferred by the 1995 Act in so much as they would have a 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.

4. An identical view was taken by another Coordinate Bench of this Court in **'Pawan Kumar Vs. Gurbalash Kaur' (CR No.7155 of 2016)** in its order dated 12.2.2018.

5. Following the ratio laid down in the aforesaid judgments, the present Revisional Application is allowed and the impugned order whereby leave to defend had been denied to the Petitioner/tenant is set aside. The Landlord/Respondent would be required to file formal application for amendment within one month from the date of receipt of a certified copy of this Order and if it is done, the same shall be allowed. The Ld. Rent

Controller will then proceed to re-decide the application for leave to defend under the 1995 Act.

6. For the reasons recorded above, the main Revisional Application being thus disposed off, the other Misc. Applications become infructuous and accordingly stand dismissed. However, the Respondent/Landlord shall be at liberty to approach the appropriate Forum for realization of the rent arrears, if any found admissible.

7. Parties are directed to remain present before the Ld. Rent Controller, Amritsar on 19/12/2018.

(SUDIP AHLUWALIA)
JUDGE

November 15, 2018
AS

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |