

In the High Court for the States of Punjab and Haryana
at Chandigarh

CR No.3193 of 2018 (O&M)
Date of Decision:- 14.05.2018

Ranjit Grewal

.....Petitioner

Versus

Rajesh Kumar Gupta and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present : Mr. Sanjay Kaushal, Senior Advocate with
Mr. Arjun Shukla, Advocate, for the petitioner.

GURVINDER SINGH GILL, J.

1. Petitioner-tenant has preferred this revision petition against judgment dated 23.4.2018 of Appellate Authority, Chandigarh whereby order of ejectment passed by learned Rent Controller, Chandigarh under provisions of East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred, "the Act") has been upheld.
2. The case set up by the respondent-landlord is that he was earlier settled in Canada and was doing Government service, from which he resigned in the year 2015 and came to India so as to start his business from the demised premises.
3. The aforesaid ejectment application was opposed by the petitioner-tenant on the ground that the sole purpose of the landlord in filing the present ejectment petition is to seek enhancement of rent and in fact the landlord and his wife are getting "social security" in Canada. A stand was further taken that in fact a more efficacious remedy in terms of Section 13-B of the Act is available to the

landlord and as such the landlord is precluded from filing a petition under Section 13 of the Act. Further a ground of subletting was also taken in the ejectment petition.

4. The parties were put to proof on the following issues :-

- “1. Whether the petitioner is entitled for eviction of the respondent on the grounds mentioned in the petition? OPP.
2. Whether the present petition is not maintainable? OPR.
3. Whether the petitioner has not approached the Court with clean hands and has concealed the true and material facts from the Court, if so its effect? OPR.
4. Whether the petitioner has not complied with the provisions of EPURA Act? OPR
5. Relief.”

5. The learned Rent Controller returned its finding to the effect that the landlord has a bona fide necessity and wishes to start his business having resigned from Government job in Canada. The ground as regards subletting raised by the landlord was not accepted. The said findings were also affirmed by the lower Appellate Authority vide impugned judgment which have been challenged by way of filing the present revision petition.

6. Learned counsel for the petitioner-tenant has submitted that in fact filing of the ejectment application was a ploy to increase the rent in question as during the course of the ejectment proceedings, the landlord had actually accepted enhanced rent of ₹18,000/- and that a subsequent offer made by him for repaying the said excess rent received by him was not accepted by the tenant.

7. I have considered the aforesaid submission.

8. There is nothing on record to suggest that there has been any understanding or

any fresh rent agreement regarding enhancement of rent from ₹22,000/- to ₹25,000/-. The fact that the landlord intended to repay the excess amount of ₹18,000/- itself shows that mere increase in rent was never the intention of landlord. In any case, there is no evidence whatsoever to suggest regarding there being any agreement to the effect that the landlord has chosen to accept the enhancement of rent. The aforesaid contention, being devoid of merits, cannot be accepted.

9. The landlord Rajesh Kumar Gupta, while in the witness box, has stated specifically as regards his having resigned from the Government job and having come to India. A perusal of his passport and of his wife, copies whereof are on record is Ex.P-8 to Ex.P-11 show that he has stayed for a substantial period in India. He has also deposed that after demise of his father on 17.2.2012, his mother felt lonely and he had stayed in India for a substantial period and since he was finding it difficult to get leave, he decided to resign from his job. As regards, the contention of learned counsel for the petitioner that the respondent-landlord and his wife are getting financial aid from Canada in the shape of social security, though the same has been specifically denied by the respondent-landlord, but even if for the sake of arguments, it is accepted that the landlord is getting some financial aid in the shape of social security, the same would not debar him for seeking ejection of tenant from his property, in case he needs the same for his personal necessity so as to start some business.
10. As far as the ground regarding the landlord not having chosen to file a petition in terms of Section 13-B of the Act, I find that the said ground would have been available to the landlord only after 5 years of his having become owner

of the demised premises. In the present case the landlord became owner of the demised premises in the year 2012 by way of a family settlement and the present petition for ejectment was filed on 4.1.2016. In these circumstances, the landlord could not avail of the provisions under Section 13-B of the Act at the time when the present ejectment application was filed.

11. No other ground has been pressed or urged before this Court. I do not find any infirmity in the findings as recorded by the Rent Controller and as affirmed by the lower Appellate Authority, Chandigarh.
12. Finding no merit in the revision petition, the same is hereby dismissed.
13. At this stage learned counsel for the petitioner-tenant has requested that the petitioner-tenant may be afforded 18 months' time to vacate the demised premises as he has been running his business from the said premises for the last 26 years, and finding some appropriate accommodation will take some time.
14. The request is accepted to the extent that petitioner-tenant is directed to hand over vacant premises to the landlord by 31.3.2019 subject to the condition that the petitioner-tenant shall continue paying rent, as assessed by the Appellate Authority @ ₹40,000/- per month and subject to his furnishing an undertaking to this effect before the learned Rent Controller, Chandigarh by 31st May, 2018.

May 14, 2018

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No