

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

CR No.7124 of 2015(O&M)

Date of decision: 27.8.2018

Bharat Sanchar Nigam Ltd. and anotherPetitioners

VERSUS

Geeta Sharma and anotherRespondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. D.R. Sharma, Advocate for the petitioners.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 05.04.2014 passed by the Rent Controller, Amritsar whereby the application for eviction filed under Section 13-B of the East Punjab Rent Restriction Act, 1949 (in short 'the Act') was allowed while dismissing the application for leave to contest primarily on the ground that the application has not been filed within 15 days from the date of service, in compliance with the provisions of Section 18-A of the Act.

Counsel for the petitioners would urge that the petitioners filed written reply on 25.09.2012 which was later withdrawn and application under Section 18-A of the Act was filed. It is argued that as the Rent Controller allowed filing of the written statement on 25.09.2012 and application for leave to contest was filed immediately on withdrawal of written statement, the petitioner cannot be made to suffer for no fault attributable to them

I have heard counsel for the petitioners, perused the paper-book particularly the order impugned.

The Rent Controller, in para 8 of the order noticed that it has no jurisdiction to extend the period of 15 days for filing of leave to contest by the tenant, by relying upon judgment of this Court **S. Sadhu Singh Vs. Col. Avnish Sharma and another, 2010(1) RCR (Rent) 12.** Counsel for the petitioners has not disputed the position in law laid down in the referred authority nor has cited any contrary judgment.

In para 9 of the impugned order, the Rent Controller has noticed the facts with regard to date of service, filing of written statement and application for leave to contest. Counsel has also not disputed the factual aspects noticed by the Rent Controller. Perusal thereof would make it evident that petitioner No.1 was served on 17.04.2012 and No.2 on 17.05.2012. The petitioners caused appearance through counsel on 09.08.2012 i.e. beyond period of 15 days provided under Section 18A(4) of the Act. They filed written reply on 25.09.2012 which was later withdrawn and application for leave to contest was filed on 06.10.2012.

As per the settled position in law, ignorance of law is not an excuse. Once the legislature in its wisdom has created an obligation upon the tenant to apply for leave to contest within a period of 15 days from the date of service in compliance with provisions of Section 18A of the Act, the petitioners cannot derive any advantage to their contention from the fact that they filed the written statement on 25.09.2012 and the same was taken on record by the Rent Controller. In absence of provision for extending time qua leave to contest, required to be filed by tenant within 15 days from the date of service, the petitioners have no case to argue that

the order passed by the Rent Controller suffers from patent illegality or material irregularity warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine. No order as to costs.

AUGUST 27, 2018
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no