

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

CR No. 2837 of 2018 (O&M)
Date of decision: March 5, 2019

Rajinder Kumar

...Petitioner

Versus

Kamaljeet Singh

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Rakesh Chopra, Advocate,
for the petitioner.

None for the respondent.

JAISHREE THAKUR, J.

Aggrieved by the order of the Rent Controller, Khanna, dated 1.2.2018, giving permission to the respondent herein to contest the petition filed under Section 13-A of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as '**the Act**'), the instant revision has been filed.

In brief, the facts are that the petitioner herein filed a petition under Section 13-A of the Act for eviction of the respondent from the shop situated at Mohalla Billan Wali Chhapri, Khanna, Tehsil Khanna, District Ludhiana. In the petition, it was pleaded that the petitioner is a specified landlord and working as Deputy General Manager-Incharge (Admin) in MECON Limited Ranchi, which is a Public Sector Undertaking and his date of superannuation was 31.3.2017. It was stated that the petitioner was due to retire and wants to start his consultancy business of small and medium

industry unit in electrical and engineering having necessary experience in this field. It was averred that the petitioner wanted to construct office-cum-administrative complex for the purpose of consultancy service at the shop which is on rent with Rakesh Kumar son of Babu Ram, who has sub let the same to one Rajinder Kumar @ Kala son of Vikram and a separate petition under the relevant provision has also been filed against them.

The tenant/respondent filed an application seeking leave to contest the petition on the ground that the petitioner was not a specified landlord and there had been concealment of material facts that he has three big shops in his occupation which have been put on sale, while further taking a plea that the petitioner had no intention to settle at Khanna or start any business. In fact, a reply was filed to the said application seeking leave to contest and all the allegations made therein were denied, while specifically denying that adjoining shops have been put on sale, as alleged by the respondent/tenant. In the reply, it is specifically stated that the petitioner had been residing in Ranchi due to his job for the last so many years and wanted to settle in Khanna.

The Rent Controller, on consideration both the application and the reply thereof, allowed the application. The application was allowed on the ground that “..the petition under section 13-A of Rent Act 1949 is permissible if the petitioner is a specified landlord but the applicant specifically denied the same. Further, it is pleaded by the applicant that the petitioner is having three big shops near to the shop in question and this fact has been specifically concealed by the petitioner...”

Notice of motion was issued in the revision, however, despite service no one has put in appearance on behalf of the respondent and hence the matter was heard in the absence of the respondent.

Section 13-A of the East Punjab Urban Restriction Act, 1949 permits a specified landlord to apply to the Rent Controller for recovery of possession of his house from a tenant within one year prior to the date of his retirement or one year after the date of his retirement and to recover immediately possession of such residential building or scheduled buildings, or any part or parts of such building, if it is let out in part or parts. The term “Specified landlord” has been defined in Section 2 (hh) of the Act. The Rent Controller is required to look into the averments made by a tenant in his affidavit only on the ground as to what would disentitle a specified landlord to recover possession of tenanted premises. If the landlord fulfills three conditions; namely, (i) that the application has been filed within one year before or after his retirement or within one year of date of commencement of the Act; (ii) a certificate is available indicating his date of retirement and (iii) that he has filed an affidavit to the effect that he does not own and possess any other suitable accommodation in the local area in which he intends to reside and he wants the possession of accommodation for his own use, in these circumstances, the Rent Controller cannot ignore these averments and the application for leave to contest would necessarily be denied.

In the case in hand, the petitioner has pleaded that the petitioner is due to retire from MECON Limited, Ranchi, which is a Public Sector

Undertaking and his date of retirement was 31.3.2017, while further stating the affidavit that the premises is required for his personal necessity as he is a qualified Electrical Engineer and wants to start his own consultancy business, while further stating that there are adjoining shops which was let out to Rakesh Kumar son of Sh. Babu Ram, who has further sublet the same to one Narinder Kumar @ Kala son of Sh. Vikram and that a separate petition is being filed against both of them. It is further stated that the petitioner has not vacated any such building in the urban area of Khanna or anywhere else after the commencement of the Act. Having fulfilled the three requirements as specified under Section 13-A of the Act, there was no occasion for the Rent Controller to have allowed the application of the tenant to defend the petition. The petitioner herein was working with MECON Limited, which is Public Sector Undertaking. It has already been held in **Harjit Singh Versus M/s Daya Ram Sat Narain 2003 (1) RentLR 173** that MECON Limited is a Company whose shares are subscribed by the President of India, therefore, an employee of the MECON Limited would be held to be a employee in public service or a post in connection with the affairs with the Union of India. Furthermore, there is no explanation forthcoming as to why the Rent Controller has not accepted the petitioner to be a specified landlord, nor is there any reference to the reply filed stating that he has not got any building vacated nor has he sold any building.

In view of the above, the impugned order dated 1.2.2018 passed by the Rent Controller, Khanna, is set aside and the application filed by the respondent seeking leave to contest the petition filed by the petitioner under

Section 13 of the East Punjab Urban Rent Restriction Act, 1949 of the Act is dismissed.

March 5, 2019
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No