

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

CM-24016-CII-2016 in/and  
CR No.4504 of 2015 (O&M)  
Date of Decision: 25.11.2019

Adess Singh

.....Petitioner

Versus

Manpreet Singh Randhawa

.....Respondent

**CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR**

Present: Mr. Rajesh K. Sharma, Advocate, for the petitioner.

Mr. Abhiraj S. Baweja, Advocate for  
Mr. Harpal Singh Sirohi, Advocate, for the respondent.

**NIRMALJIT KAUR, J.**

The present revision petition is filed against the order dated 29.4.2015 passed by the learned Rent Controller, SAS Nagar, Mohali, vide which, the application filed by the petitioner-tenant under Section 18-A of the amended East Punjab Urban Rent Restriction Act, 1949 (for short, 'the Act') was dismissed and the eviction petition filed under Section 13-B of the Act filed by the respondent-landlord was allowed.

While praying for setting aside the said order, only one argument as under was raised by learned counsel for the petitioner-tenant.

The only argument raised was that the petition filed under Section 13-B of the Act was not maintainable as the same had been filed under the old Act, whereas, the same should have been filed under the Punjab Rent Act, 1995 (for short, 'the 1995 Act'), which had come into operation w.e.f. 30.11.2013. It was further submitted that the respondent had filed the petition under Section 13-B of the Act on 23.12.2013. Cut-off date for filing the petition under Section 13-B of the Act was 30.11.2013.

Thereafter, any petition filed after 30.11.2013 by a NRI-landlord would have to be filed under the provisions of the 1995 Act notwithstanding the fact that it was let out prior to 30.11.2013. Reliance was placed on the judgment the learned Single Bench of this Court rendered in the CR No.3509 of 2014 and other revision petitions titled as Krishan Kumar vs. Kamla Devi, decided on 9.5.2016. Relevant part of the said judgment is reproduced below:-

“Keeping these two principles in mind as well as the principle of 'dominant and subservient provisions' as explained by the Supreme Court in Commercial Tax Officer, Rajasthan Vs. M/s Binani Cement Ltd. and another, (2014) 3 SCR,1 the only harmonious construction which would give effect to these disparate provisions would be to hold that as regards NRI-landlords, those cases which were filed prior to 30.11.2013 would be taken up under the Act of 1949 and those which were filed after that date would have to be filed and proceeded under the 1995 Act, notwithstanding the date of the tenancy.”

Heard.

Learned counsel for the petitioner-tenant may have had some merit in the argument so raised but for the following facts that have emerged before this Court:-

(a) It is not disputed that when the eviction petition was filed under Section 13-B of the Act, some provisions of the Act had been stayed .

(b) Even if it was not the entire Act and only some provisions of the Act were stayed, it did lead to lot of confusion.

(c) In any case, Section 3(1)(a) of the 1995 Act exempts certain premises from operation of the Act and the premises let out before the commencement of the Act are exempted as per Section 3(1)(a) of the

Act which reads as under:-

**“3 Premises exempted from the operation of the Act.-- (1)**

Nothing in this Act shall apply-

(a) to any premises let out before the commencement of this Act.

(d) Moreover, Section 75(2) of the 1995 Act, which is for repeal and savings has exempted the premises owned by a NRI from applicability of the 1995 Act. Therefore, the new Act was not applicable to the case in hand. Section 75(2) of the 1995 Act reads as under:-

“(2) Notwithstanding the repeal of the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act No.III of 1949), under sub-section (1), all cases and other proceedings in respect of the premises, other than owned by a non-resident Indian, let out prior to the commencement of this Act shall be governed and disposed of in accordance with the provisions of the Act so repealed.”

(e) The petitioner-tenant did not raise any such objection that eviction petition was not maintainable under the new Act either before the Rent Controller and nor the same was raised in the application under Section 18-A of the Act, as he was aware of the provisions of Sections 3(1)(a) and 75(2) of the 1995 Act is clear.

(f) No such objection is raised by the petitioner-tenant before this Court in the grounds of revision filed before this Court and rightly so because Sections 3(1)(a) and 75(2) of the 1995 Act is clear.

(g) In fact, it is evident from the order dated 17.8.2015 issuing notice of motion that the only contention was that the respondent-landlord is a British citizen and holds a British passport and therefore, cannot claim to be a NRI and since it was contended that the matter was pending before

whether the citizens of other countries can be termed as NRI in terms of Section 2(dd) of the Act; status quo was ordered to be maintained on that date subject to deposit of the entire arrears of rent upto 31.8.2015 within four weeks of the passing of the said order. The Hon'ble Supreme Court has since decided the matter vide order and judgment dated 14.11.2019 passed in Special Leave Petition (Civil) No.26925 of 2011 titled as Ram Krishan Grover and others vs. Union of India and others, and other connected appeals holding the said issue in favour of the landlord and against the tenant.

(h) Even at that point of time, the argument with respect to the maintainability of the petition under the old Act was not raised and the petitioner-tenant continued to enjoy the possession of the premises.

(i) In fact, taking note of the above argument that the question as to whether the citizen of other country can be termed as NRI or not was pending before the Hon'ble Supreme Court, status quo was granted subject to deposit of the entire arrears of rent upto 31.8.2015 on 17.8.2015. Admittedly, the petitioner-tenant has not paid any rent after the said date on the ground that there was no direction to pay the rent every month thereafter.

No doubt, the learned Single Bench of this Court in the case of Krishan Kumar (supra) observed that in order to chalk out a harmonious construction and to give effect to different provisions, those cases, which were filed prior to 30.11.2013 would be taken up under the Act of 1949 and those which were filed after the date would have to be filed and proceeded under the 1995 Act, notwithstanding the date of tenancy, however, in the present case, as noted from the facts which have emerged and mentioned

above, perusal of Sections 3(1)(a) and 75(2) of the 1995 coupled with the fact that the petitioner-tenant did not raise any objection before the Rent Controller nor took such plea in the grounds of revision cannot now take advantage of the above observations in the case of Krishan Kumar (supra) to put the clock back, as admittedly, the petitioner-tenant has not even being paying the rent after the passing of the order of status quo in his favour.

In fact, no fault can be found with the filing of the eviction petition under the 1949 Act instead of the 1995 Act in view of Sections 3(1) (a) and 75(2) of the 1995, which clearly lay down that the amended Act of 1995 is not applicable in the cases, in which premises were rented out prior 30.11.2013 and moreover, the cases of NRI filed under the 1949 Act, were protected by Section 75(2) of the 1995 Act.

In view of the above, the revision petition is dismissed being devoid of merit. The petitioner-tenant is directed to vacate the possession of the disputed property forthwith.

**25.11.2019**  
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**(NIRMALJIT KAUR)**  
**JUDGE**

Whether Speaking/Reasoned : Yes/No  
Whether Reportable : Yes/No