

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

Civil Revision No.4609 of 2019

Decided on:26.08.2019

Malkiat Singh

.....Petitioner

versus

Asha Rani

....Respondent

CORAM : HON'BLE MR.JUSTICE DR.RAVI RANJAN

Present: Mr.Parvinder Singh, Advocate,
for the petitioner.

DR.RAVI RANJAN, J. (Oral Judgement)

I have heard learned counsel for the petitioner.

Through this revision petition the order dated 29.03.2018 passed by the Appellate Authority-cum-Additional District Judge, SBS, Nagar, being the competent authority under East Punjab Urban Rent Restriction Act, 1949 (hereinafter to be referred as the 'Act'), has been put to challenge, by which the Appellate Authority has affirmed the order dated 12.09.2018 passed by the Rent Controller, Balachaur, SBS Nagar, in Rent Petition No.09 of 2015 holding the respondent/tenant (petitioner herein) to be defaulter in not paying the assessed rent including interest as well as the cost of litigation despite indulgence granted and, as a result, has directed him to vacate the demised premises and hand over the vacant possession of it to the applicant/landlord (respondent herein) within 60 days.

1. Short facts which would be necessary for consideration of the *lis*, stand enumerated as under:

The applicant/landlord/respondent filed a petition under Section 13-A of the Act, disclosing therein that the demised premises in

dispute was given to the respondent/tenant/petitioner on rent on 01.02.2007 at the rental of Rs.3,000/- per month plus municipal tax payable in advance in every month against the proper receipt. It was one of the terms and conditions of the tenancy that on violation of the terms and considerations the tenancy, the respondent/tenant/petitioner would vacate the rented premises. The applicant/landlord/respondent desired the eviction of the tenant on the ground that he is a chronic defaulter and he is in arrears of rent plus municipal tax since 01.02.2012 despite repeated demands made by the landlord.

It is also stated in the petition that the respondent/tenant and his family members are quarrelsome in nature and used to quarrel with the landlord on regular basis.

It is further stated that the tenant threatened the applicant/landlord to file a complaint under certain provisions of Indian Penal Code and Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

That apart the applicant/landlord wanted to take back the premises under his *bona fide* requirement and it is stated that she herself wants to reside at Balachaur in the disputed premises and wants to open a private clinic for her daughter in the same. It has also been declared in the petition that except the disputed property, there is no other suitable accommodation available to the applicant/landlord for her and for her daughter's residence and for her clinic.

2. Upon filing of such application, since the dispute was raised by the tenant/petitioner that only Rs.1,000/- per month was the rental, the Rent Controller assessed the provisional rent and as per the assessment it came

to Rs.3,000/- per month from 01.02.2012 to 01.05.2018 alongwith municipal taxes and also interest at the rate of 6% per month on unpaid amount as well as costs of Rs.1,000/-, which in sum total came to Rs.2,39,500/- as on 18.07.2018. Failing which, the Rent Controller held that the tenant would have to vacate the premises within a period of 60 days and hand over the vacant possession to the applicant/landlord.

3. The aforesaid order dated 12.09.2018 passed by the Rent Controller was put to challenge by the tenant/petitioner before the Appellate Authority-cum-Addl.District Judge, however, the Appellate Authority has also affirmed the findings recorded by the Rent Controller.

4. Learned counsel for the tenant/petitioner raises sole issue in this revision that the petition having been filed under Section 13-A of the Act, the respondent admittedly not being a specified landlord in terms of Section 2(hh) of the Act, the petition before the Rent Controller was not maintainable and, as such, the same was required to be dismissed *in limine*.

5. It is further contended that neither the Rent Controller nor the Appellate Authority has delved upon this issue which had been raised on behalf of the tenant/petitioner.

However, the aforesaid limb of argument advanced on behalf of the petitioner is noted only to be rejected for the reason that it is well settled principle that labelling of a provision of law would not be of much importance as the content of the application would decide as to under which provision it is to be considered. The copy of the petition filed before the Rent Controller has been appended alongwith the memorandum of appeal. Of course, in heading as well as in paragraph 8 it is stated that the petition has been filed under Section 13-A of the Act, but on reading of the petition

it does not appear that the landlord has claimed herself to be the specified landlord and the prayer simpliciter is for ejectment of the tenant on the ground of default in payment of rent as well as on the ground of *bona fide* necessity. In such a situation even if a label had been given to the petition to be under Section 13-A, the same has to be considered under Section 13 and that has rightly been done by the Rent Controller as well as the Appellate Authority.

6. Having held so, I find no merit in the revision petition and, accordingly, the same is dismissed.

Before parting with the issue, I must indicate that no other ground has been raised on behalf of the petitioner at the time of hearing save and except the one which has been considered as above.

August 26, 2019
dharamvir

(DR. RAVI RANJAN)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable :	Yes