

106 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-2495-2015 (O&M)

Date of Decision: 04.02.2020

State of Haryana

.... Petitioner

Versus

Gurmail Singh

...Respondent

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Sanjiv Gupta, Advocate  
for the petitioner.

Mr. Sharan Sethi, Advocate  
for the respondent.

**ANIL KSHETARPAL, J. (ORAL)**

Application filed by the tenant for grant of leave to defend the petition has been dismissed on the ground that it was filed beyond the time prescribed.

A three-Judges Bench in the case of Anwar Ali versus Gian Kaur 2012 (1) RCR 290 have held that Rent Controller has no jurisdiction to condone the delay in filing an application for leave to defend as provided under Section 18 (A) of the East Punjab Urban Rent Restriction Act, 1949.

It is undisputed that application was not filed within the prescribed time from the date of service of summons as per Schedule II attached to the Act of 1949.

Learned counsel for the petitioner while drawing attention of the Court to various orders passed by the Court, has submitted that initially the Rent Controller had committed an error in treating the petition to be filed under Section 13 and not under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949. Hence, he has submitted that tenant-petitioner should not be punished for the same. On the other hand learned counsel appearing

02.11.2012, realizing the mistake, ordered issuance of fresh summons under Section 13-B of the Act of East Punjab Urban Rent Restriction Act, 1949 in the form specified in Schedule II of the Act for 12.12.2012. The aforesaid summons were served on the tenant on 15.02.2013. As per the provision of the Act, an application for leave to contest could be filed within 15 days from the date of service. However, the application to leave to contest was filed on 21.03.2013. Hence, it is prayed that the present petition be dismissed.

Before this Court proceeds to analyze the arguments of learned counsel for the parties, it would be appropriate to extract the orders passed by the Court on various hearings:-

“Gurmail Singh V. State of Haryana.

Present: Counsel for the petitioner.

Petition received by entrustment. Report of Reader perused. It be registered. Let notice of the petition be issued to the respondent for 2.11.2012 on filing of RC/AD & PF etc. Dasti summons be given if so desired.

Sd/-  
RC/16.7.2012”

“Gurmail Singh V. State of Haryana.

Present: Shri R.S.Walia, Counsel for the petitioner.

Since the present application is under Section 13-B let summons to tenant/respondent be issued in the form specified in Schedule 2 of East Punjab Urban Rent Restriction Act along with annexures for 12.12.2012 on filing of PF, RC, AD copy etc. within 7 days. Additionally copy of summons be simultaneously sent by registered post, acknowledgement duly addressed to tenant or his agent empowered to accept serviced on his behalf for date fixed and another copy of the same be affixed on the conspicuous part of the building in respect of present application has been made. Dasti summons be also given if so desired.

Sd/- Harsimranjit Singh  
RC/Chd. 2.11.2012”

“Gurmail Singh V. State of Haryana.

Present: Shri R.S.Walia, Counsel for the petitioner.

Respondent not served. Be summoned for 19.2.2013 as per previous orders.

Sd/- Aashish Saldi  
RC/12.12.2012”

“Present: Shri R.S.Kalia, Counsel for the petitioner.

Shri Dinesh S. Bisht from Environment Department has appeared for respondents and requested for respondents and requested for adjournment to file reply. As such, case is adjourned to 21.3.2013 for filing reply.

Sd/- Aashish  
RC/19.2.2013”

It is apparent that on 02.11.2012, the Rent Controller while noticing that the petition filed under Section 13-B of the Act, 1949 had directed issuance of notice to the tenant in form specified in Schedule II. The summons were served on 15.02.2013.

In these circumstances, the application filed for leave to contest on 21.03.2013 was clearly beyond the time prescribed. It is incumbent on the tenant to apply for leave to contest within 15 days from the date of service of notice. In the present case, the tenant has failed to apply leave to defend.

Keeping in view the aforesaid facts, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the above said judgment.

(ANIL KSHETARPAL)  
Judge

04.02.2020

Pardeep

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No