

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-343-2015(O&M)

Date of decision: 05.03.2020

Ravi Kumar

.....Petitioner

Versus

Chaman Lal Chohan

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Sandeep Arora, Advocate for the petitioner

Mr. Amit Dhawan, Advocate for the respondent

ANIL KSHETARPAL, J. (ORAL)

The tenant-petitioner has filed the present revision petition under sub-section 5 of Section 15 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the '1949 Act') against order declining his application for leave to contest. By Punjab Act no.9 of 2001, Section 13-B has inserted granting a right to Non Resident Indians to apply for recovering of immediate possession of residential building or scheduled building and/or non-residential building. Section 13-B of the 1949 Act is extracted as under:-

"13-B. Right to recover immediate possession of residential building or scheduled building and/or non-residential building to accrue to Non-resident Indian.--

(1) Where an owner is a Non-Resident Indian and returns to India and the residential building or scheduled building and/or non-residential building, as the case may be, let out by him or her, is required for his or her use, or for the use of any one ordinarily living with and dependent on him or her, he or she,

may apply to the Controller for immediate possession of such building or buildings, as the case may be :

Provided that a right to apply in respect of such a building under this Section, shall be available only after a period of five years from the date -of becoming the owner of such a building and shall be available only once during the life time of such an owner.

(2) Where the owner referred to in sub-section (1), has let out more than one residential building or scheduled building and/or non-residential building, it shall be open to him or her to make an application under that sub-section in respect of only one residential building or one scheduled building and/or one non-residential building, each chosen by him or her.

(3) Where an owner recovers possession of a building under this Section, he or she shall not transfer it through sale or any other means or let it out before the expiry of a period of five years from the date of taking possession of the said building, failing which, the evicted tenant may apply to the Controller for an order directing that he shall be restored the possession of the said building and the Controller shall make an order accordingly."

Section 18-A of the 1949 Act lays down the procedure for deciding the applications filed under Section 13-B. Sub section 4 of Section 18 lays down that leave to contest would only be granted if the tenant makes out a prima facie case to the satisfaction of the Court that leave to contest is required to be granted.

In the present case, application supported by an affidavit for grant of leave to contest was filed which has rejected by the learned Rent Controller by a detailed order.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the paper book. Learned counsel for the petitioner has submitted that the landlord is a British citizen and therefore, does not fall within the definition of Non Resident Indian. He submitted that purpose of introducing Section 13-B is to extend benefit to Indian Passport holders and not to foreign nationals.

This Court has considered the submissions. The word “*Non Resident Indian*” has been defined in Section 2 (dd) of 1949 Act which is extracted as under:-

“2(dd) “Non-resident Indian” means a person of Indian origin, who is either permanently or temporarily settled outside India in either case -

(a) for or on taking up employment outside India; or

(b) for carrying on a business or vocation outside India, or

(c) for any other purpose, in such circumstances, as would indicate his intention to stay outside India for a uncertain period.”

On plain reading of Section 2(dd) of the 1949 Act, extracted above, proves that any person of Indian origin who is either permanently or temporarily settled outside India has been included in the definition of Non Resident Indian. It is not mandatory that the person applying under Section 13-B is required to be necessarily holder of an Indian Passport. What is required to be proved is that he is a person of Indian origin and permanently or temporarily settled outside India. In the present case, both the requirements stand fulfilled.

In view of the aforesaid facts, no ground to interfere is made out. Hence, dismissed.

05.03.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No