IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CR-3682-2017(O&M)

Dilbagh Singh (deceased) through L.R Taranpreet Thind

.....Petitioner

Versus

Kanwal Jit Lachhar

.....Respondent

2. CR-3037-2017(O&M)

Madan Mohan

.....Petitioner

Versus

Kanwal Jit Lachhar

.....Respondent

3. CR-3036-2017(O&M)

Raghbir Singh

.....Petitioner

Versus

Kanwal Jit Lachhar

.....Respondent

4. CR-3035-2017(O&M)

Gurdeep Singh through LR Sukhwinder Singh

.....Petitioner

Versus

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Kanwal Jit Lachhar

.....Respondent

5. CR-5876-2018(O&M)

Pritpal Chawla

.....Petitioner

Versus

Bhupinder Jit Grewal

.....Respondent

Date of decision: 04.03.2020

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Aayush Gupta, Advocate for the petitioner
in all revision petitions.

Mr. Abhimanyu Kalsy and
Mr. A.K.Kalsy, Advocates for the respondent
in all revision petitions.

ANIL KSHETARPAL, J.

By this order five civil revision petitions i.e CR-3682, 3037, 3036, 3035 of 2017 and 5876 of 2018 shall stand disposed of.

As per amendment brought in by Punjab Act No.9 of 2001 the East Urban Punjab Rent Restriction Act, 1949 was amended and Non Resident Indians were given right to recover immediate possession of residential building or scheduled building and/or non-residential building. Section 13-B as added by Act no.9 of 2001 is extracted as under:-

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

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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 lays down the procedure for guidance of the Rent Controller while deciding such petitions. Sub-section 4 of Section 18-A provides that a tenant shall have no right to contest unless he files

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an affidavit stating the ground on which he seeks to contest the application for eviction. In the present cases, leave to contest was granted.

After appreciating the evidence, learned Rent Controller in all these cases passed an order of eviction against which these revision petitions have been filed.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgments passed by the Rent Controller.

Learned counsel for the petitioner submits that the landlady has failed to prove her ownership which is sine qua non for filing a petition. He submitted that landlady is daughter of late Smt. Harbans Kaur who had purchased 427 sq. yards vide two sale deeds in the year 1961 and 1964 (Ex. P-5 and P-6). He, hence, submits that the landlady is not proved to be owner of the entire premises which is 836 sq. yards. He further drew attention of the Court to the statement of Tarlochan Singh who appeared on behalf of landlady as power of attorney holder. He submits that purchase of 427 sq. yards is admitted. He, hence, submits that ownership of the remaining portion is not proved.

On the other hand, learned counsel for the landlady- has read over the statement of Dilbagh Singh-tenant. He has categorically admitted that Harbans Kaur was owner and thereafter, respondent is the owner of 836 sq. yards area i.e the entire building.

This Court has considered the submissions. In view of the categoric admission of Dilbagh Singh admitting ownership of Harbans

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Kaur and thereafter, respondent, there cannot be any doubt about her ownership as far as rent petitions are concerned. Even if she is co-owner, still she is entitled to file petitions.

Learned counsel for the petitioner submits that in the year 1977 there was a judgment wherein Smt. Sanyogita Rani was declared as owner of the commercial property. However, he admitted that the aforesaid judgment has neither been exhibited nor proved on file. The aforesaid alleged judgment has never been admitted in evidence. Therefore, the same cannot be relied upon.

Hence, no ground to interfere is made out.

All revision petitions shall stand dismissed.

04.03.2020 **(ANIL KSHETARPAL)**
rekha **JUDGE**
Whether speaking/reasoned Yes / No
Whether Reportable Yes / No

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