

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

CR-5866-2015 (O&M)

Date of decision : 07.02.2020

Surjit Sehdev (since deceased) through his LRs and another

...Petitioners

Versus

Surjit Singh Basra (since deceased) through his LRs

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kiran Kumar, Advocate for the petitioners.

Mr. K.G. Chaudhary, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

CM-18625-CII-2015

For the reasons stated in the application, which is duly supported by an affidavit, legal heirs of petitioner-Surjit Sehdev as mentioned in para 5 of the application are ordered to be brought on record.

Application is allowed, subject to all just exceptions.

Main case

The present revision petition has been filed against the order dated 16.09.2014 passed by the Court of Rent Controller under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter to

be referred as “the Act of 1949”), challenging order of eviction of the tenant.

Learned counsel for the petitioners has pointed out that the tenant was sole proprietor of M/s Parmar Machinery Store, had died in the year 2010 but no application for bringing on record his legal heirs was moved by the landlord. He further drew attention of the Court to the order dated 12.05.2014 passed by the Rent Controller ordering issuance of notice to the respondent, as no one was appearing on his behalf which is extracted as under:-

“Present:- Sh. Manjit Singh, Adv. Counsel for the petitioner.

Sh. Manjit Singh, Advocate has appeared on behalf of petitioner and made statement that LRs of the petitioner Surjit Singh are residing in foreign country, so kindly grant some adjournment for recording their statements. In view of it, case is adjourned to 03.07.2014 for further proceedings.

Notice to respondent as well as his counsel be also issued for the date fixed.

Date: 12.05.2014

*Sd/- Rupinder Singh
RC/Phagwara”*

Learned counsel has further drawn attention of the Court to the report of the Process Server at page Nos.82 and 83 of the paper book. It was reported that the tenant has already died. Hence, he submitted that the order passed by the Rent Controller cannot be sustained.

On the other hand, learned counsel for the respondents has submitted that the tenant has been delaying disposal of the case. He

submitted that the petition under Section 13-B of the Act of 1949 filed on 24.11.2003 was allowed by the Rent Controller on 21.09.2007. The revision petition filed by the tenant remained pending in this Court for 7 years. During the pendency of the revision petition, the landlord died. Keeping in view the aforesaid facts, the legal heir of landlord was permitted to file affidavit so as to take a plea with respect to her own personal necessity. Hence, he submitted that the petition under Section 13-B of the Act of 1949, which is expected to be expeditiously disposed of, has remained pending for 17 years.

This Court has considered the respective submissions of learned counsel for the parties and with their able assistance gone through the paper book.

There is no doubt that the proceedings under Section 13-B of the Act of 1949 have remained pending for quite sometime, however, that itself cannot be a reason to deny the opportunity of hearing to the tenant. In the present case, after revision petition was allowed and the case was remitted back, the tenant never appeared before the Rent Controller.

Learned counsel for the petitioners contends that the tenant had, in fact, died in the year 2010. In any case, once the Court of Rent Controller chose to issue notice to the tenant and it was reported that the tenant has already died, it was incumbent upon the Court to direct the landlord to file an application for bringing on record the legal heirs.

Keeping in view the aforesaid facts, order under challenge is set aside. The case is remitted back to the learned Rent Controller.

The legal heirs of tenant late Sh. Surjit have already filed the rent petition therefore, they shall be deemed to have been impleaded in the rent petition. The Rent Controller is directed to decide the case positively within a period of three months from the date of receipt of certified copy of the order.

Parties through their counsel are directed to appear before the Rent Controller on 25.02.2020.

It is made clear that no fresh notice shall be required to be issued to any of the party.

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

Disposed off.

07.02.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No