

**In The High Court for the States of Punjab and Haryana  
At Chandigarh**

CR-2404-2020 (O&M)  
Date of Decision:-26.10.2020

M/s Doctor Today Healthcare India Pvt. Ltd. ... Petitioner

Versus

Monika Narang and another ... Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. Vikram Singh, Advocate for the petitioner.

*(proceedings conducted through video conferencing)*

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**GURVINDER SINGH GILL, J.**

1. The petitioner/tenant assails order dated 4.3.2020 (Annexure P-5) passed by learned Rent Controller, Faridabad vide which an application filed by him under Order 7 Rule 11 CPC seeking rejection of the petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (*in short hereinafter referred to as the Act*) filed by respondents/landlords has been dismissed.
2. A few facts necessary to notice are that the respondents/landlords filed an ejectment petition in the Court of the Rent Controller, Faridabad seeking eviction of the petitioner/tenant from the demised premises on account on non-payment of rent, stated to be in arrears of ₹ 49,28,600/-. The petitioner filed written statement opposing the ejectment application.

3. During the pendency of the ejectment application, the petitioner/tenant moved an application under Order 7 Rule 11 of CPC seeking rejection of the ejectment petition on the ground that the same was not maintainable as the provisions of the Haryana Urban (Control of Rent and Eviction) Act, 1973 were not applicable to the premises in question as a period of 10 years had not elapsed after completion of the construction of the building, as provided under Section 1(3) of the Act.
4. The said application was contested by the respondents/landlords, who filed reply. The learned Rent Controller, Faridabad, upon considering the aforesaid application dismissed the same vide order dated 4.3.2020, which has been assailed by way of filing the instant revision petition.
5. The learned counsel for the petitioner has submitted that in the present case the tenancy had commenced from 2015 and that when the ejectment petition was filed in the year 2019, the premises in question were only 8 years old, having been constructed in the year 2011. The learned counsel has further submitted that infact the premises in question were initially constructed as a residential premises which were later converted into a commercial premises in the year 2011, as would be evident from Memo dated 29.4.2011 (Annexure P-7) and that as such, at best, it would have been from the year 2011 that the period of 10 years ought to have been calculated. The learned counsel has further referred to a Valuation Report dated 27.10.2006 (Annexure P-8) wherein in column No. 30, it has been mentioned that the building is still under construction. It has, thus, been submitted that since the valuation report relied upon by the landlords/respondents himself suggest that the building was still under construction, the finding of the Rent

Controller, Faridabad to the effect that a period of 10 years had already elapsed after construction of the building could not sustain and consequently, the impugned order was liable to be set aside.

6. I have considered rival submissions addressed before this Court.
7. It would be apposite to bear in mind the provisions of Section 1(3) of the Act, which read as follows:-

“Section 1(3) Nothing in this Act shall apply to any building the construction of which is completed on or after the commencement of this Act for a period of ten years from the date of its completion.”

8. A perusal of the aforesaid provision would show that the provisions of the Rent Act apply to the premises only after 10 years of its construction. A perusal of house tax receipt dated 23.2.2007 (Annexure P-6) would show that house tax amounting to ₹35,400/- had been deposited by the respondents/landlords for the year 2006-2007 which would necessarily indicate that the premises in question were already in existence in the year 2006-2007. Although, the learned counsel for the petitioner has vehemently argued that since the premises were got converted into a commercial premises in the year 2011, therefore, it is only with effect from 2011 that the period of 10 years has to be reckoned, but a perusal of Section 1(3) of the Act does not draw any such kind of distinction and only refers to factum of construction of building. In these circumstances the fact that the character or usage of the building had been changed would be of no significance as far as the provisions of Section 1(3) of the Act are concerned. As regards the valuation report dated 27.10.2006 is concerned, a perusal of the same does

show that in column NO. 30, it is stated that the building is under construction but the fact that the building was under construction in the year 2006 would not give any advantage to the petitioner's case inasmuch as a period of 10 years prior to 2019 when the ejectment application was filed would start from the year 2009. In other words, the tenant would be required to show that the building had been constructed after the year 2009. As such, the valuation report dated 27.10.2006 wherein it is mentioned that the building is under construction in 2006 does not advance the case of the petitioner in any manner. The learned Rent Controller, Faridabad while relying upon a copy of house tax receipt for the year 2006-2007 and while also relying upon a copy of a civil suit filed by the landlords against another tenant namely DHBVNL and having reached at the conclusion that it cannot be said that the premises is less than 10 years old cannot be said to have committed any error. There is no infirmity in the impugned order dated 4.3.2020 and the same is upheld.

9. Finding no merit in the revision petition, the same is hereby dismissed.

**26.10.2020**

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**( Gurvinder Singh Gill )  
Judge**

Whether speaking /reasoned                      Yes / No

Whether Reportable                                      Yes / No