

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

CR-4324-2015(O&M)

Reserved on:-22.11.2021

Date of Pronouncement:-25.11.2021

Premi Lal

...Petitioner

Versus

Sohan Singh @ Chanan Singh Rayat

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Gaurav Rana, Advocate
for the petitioner.

Mr.H.S. Dhindsa, Advocate
for the respondent.

H.S. MADAAN, J.(ORAL)

1. This revision petition is directed against order dated 19.5.2015 passed by the Rent Controller, Ludhiana in a petition under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the Act) vide which petition filed by petitioner/landlord Sohan Singh @ Chanan Singh Rayat against respondent/tenant Premi Lal has been accepted. The revisionist in this

case is Premi Lal – tenant, who is aggrieved by the order of his ejectment.

2. Briefly stated, facts of the case are that petitioner/landlord Sohan Singh @ Chanan Singh Rayat, a Non-Resident Indian putting up in United Kingdom had filed a petition under the Act against respondent/tenant Premi Lal seeking ejectment of the latter from demised premises in the form of two rooms, two kitchens, two latrine-bathrooms and a passage forming part of House No.3356, Gurcharan Park, New Model Town, Ludhiana.

3. Inter alia, in the petition, the petitioner submitted that he is owner/landlord of House No.3356, Gurcharan Park, Model Town, Ludhiana having purchased the same vide sale deed dated 4.6.1958 and he had inducted respondent Premi Lal as a tenant in portion of that house on monthly rent of Rs.2,100/-, which stood enhanced from time to time being Rs.2,900/- per month at the time of filing of the petition and respondent/tenant had been paying that rent to petitioner/landlord; that petitioner/landlord is a Non-Resident Indian and he along with his family has been residing in England since long and now he and his wife, who are of advanced age and senior citizens inasmuch as petitioner/landlord was aged 83 years (at the time of filing of petition on 12.4.2014) want to spend evening of their lives in their house at Ludhiana; the accommodation in their possession is insufficient for them and their entire family, the number of such extended family members being 17, when they all of them come to India together. In that way, the petitioner requires demised premises for their own use and occupation and they would do so for residential purposes only, therefore, the demised premises be got vacated

from the respondent/tenant Premi Lal.

4. On getting notice of the ejectment petition, respondent-tenant put in appearance before the Rent Controller and filed an application for leave to contest the ejectment petition along with affidavit within 15 days of service of notice. In that application, the respondent – tenant contested the prayer for ejectment made in the petition taking various pleas, which shortly put were as follows:

- (i) that earlier to filing of the ejectment petition, the respondent – tenant had filed a civil suit for grant of permanent injunction, where the petitioner had put in appearance and specifically stated that applicant was not a tenant and was just a licensee/care taker in part of the property, in that way, petitioner was not treating him as a tenant, thus, the petition is not maintainable as a serious dispute with regard to relationship of landlord and tenant between the parties, ownership of property, creating of tenancy is involved;
- (ii) that the property in dispute is situated at New Model Town, Ludhiana, whereas in the ejectment petition, the petitioner has described the same being situated at Model Town, Ludhiana.
- (iii) that the petitioner is not a Non-Resident Indian inasmuch as he is only holding a British passport, which is not sufficient to bring him within the definition of non-resident Indian as required in terms of Section 13-B of the Act.
- (iv) that the need put forward by the petitioner is not bona fide because he has no intention to return to India and to use the demised

premises for his residence;

(v) that the petitioner has not placed on record any document to prove that Sohan Singh and Chanan Singh are names of one and the same person; and

(vi) that the petition is bad for partial ejectment.

5. According to the respondent, there were triable issues, which required leading of evidence, therefore, he sought leave to contest the ejectment petition.

6. That application was vehemently opposed on behalf of the petitioner.

7. After hearing arguments, learned Rent Controller, Ludhiana vide the impugned order refused leave to contest to the respondent – tenant thereby ordering his ejectment from the demised premises leaving the respondent – tenant aggrieved and he has knocked at the door of this Court by way of filing the present revision petition.

8. Notice of the revision petition was given to the respondent, who put in appearance through counsel.

9. I have heard learned counsel for the parties besides going through the record.

10. Learned counsel for the revisionist has almost taken the same objections, which are there in the application moved by him seeking leave to contest, the details of which have been given supra. Learned Rent Controller, Ludhiana has dealt with all such objections in detail. To prove that petitioner is a Non-Resident Indian having foreign citizenship and is

owner of the property in question for last 5 years of the petition, the petitioner had placed on record photocopy of his British Passport bearing No.466428294 as well as photocopies of British passports of his family members. He had further placed on record copy of sale deed No.3950 dated 4.6.1958 showing him to be owner of the house, of which the demised premises form a part, since the year 1958. The Apex Court in judgment Baldev Singh Bajwa Versus Monish Saini, 2005(2) LAR SC had categorically observed that definition of Non-Resident Indian under the Act contemplates that any person, who is of a Indian region and who has settled either permanently or temporarily outside India for taking up employment; or for carrying on a business or vocation outside India; or for any other purpose in such circumstances as would indicate to stay outside India for an uncertain period. The petitioner is covered by this definition of Non-Resident Indian, therefore, he has got every right to file petitioner under Section 13-B of the Act.

11. As far as ownership of the demised premises is concerned, the petitioner has placed on record copy of the sale deed in his favour, which prima facie goes to show his ownership and furthermore in a civil suit filed by present revisionist Premi Lal against landlord Sohan Singh @ Chanan Singh and another, Civil Judge (Jr.Divn.), Ludhiana vide judgment and decree dated 2.7.2014 had given a finding that revisionist Premi Lal was in possession of the demised premises as lawful tenant under Sohan Singh @ Chanan Singh since year 2001 and such tenancy was oral coupled with delivery of possession. The revisionist is bound by such observations. Even otherwise, the fact that revisionist had filed a suit

for grant of permanent injunction against respondent – Sohan Singh @ Chanan Singh and another goes to show that he admitted the defendant to be his landlord and relationship of landlord and tenant comes out to be there. Under Section 116 of the Evidence Act, a tenant cannot deny title of his landlord at the beginning of the tenancy. It is specific case of the petitioner that he has got extended family of 17 members and he along with his aged wife intend to shift to India so as to spent the remaining years of their life in India while residing in their house of which the demised premises form a part presently in possession of Premi Lal – tenant, whose ejectment is being sought for. Therefore, the requirement of the petitioner comes to be bona fide. There is nothing on record to show that the petitioner/landlord wants to get the premises vacated just to let out the same at higher rate of rent. Even otherwise, a safeguard has been provided under Sub-Section 3 of Section 13-B of the Act itself where an owner recovers possession of a building under this section then 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 said building and Controller may make an order accordingly. Therefore, if for a moment the objection raised by the tenant is accepted that the petitioner landlord wants to get the demised premised vacated just to let it out at higher rate of rent, he cannot possibly do so for a period of five years after getting it vacated and if he does so before expiry of that period, the tenant shall have a right to recover the possession by invoking Sub-Section 3 of

Section 13-B of the Act. There is nothing on record and even the revisionist does not allege anywhere that petitioner/landlord has got any alternative accommodation where he along with his wife and children can put up at Ludhiana, where the petitioner and his wife want to spent their remaining life. As rightly observed by the Rent Controller, Ludhiana, the tenant cannot dictate any term to the landlord with regard to any other place where he can settle down equally comfortable or in a better manner. The petitioner/landlord who comes within the definition of specified landlord certainly has a right to get the demised premises vacated from the respondent – tenant and respondent – tenant cannot deny that right by raising any number of such pleas.

12. The objections taken by the revisionist do not have any element of merit. He has gone to the extent of disputing the identity of Sohan Singh stating that his name as reflected in the passport is Chanan Singh and not Sohan Singh. May it be so. A person may have different names and may be known by several alias and all those need not to be mentioned in the official record like passport. The revisionist himself had filed a suit for permanent injunction against petitioner/landlord mentioning him to be Sohan Singh @ Chanan Singh Rayat, copy of judgment in that suit being Annexure P10. Such type of frivolous objections do not make any sense and are not helpful to the tenant in getting leave to contest. The Rent Controller has discussed the factual as well as legal position in detail rightly coming to the conclusion that no triable issue was there which might have called for allowing the application for leave to contest to respondent – tenant.

13. As already observed, learned counsel for the revisionist during arguments has just repeated the grounds taken in the application for leave to contest, which were rightly rejected by the Rent Controller, Ludhiana and in my view do not call for taking different view in the matter.

14. Learned counsel for the revisionist has relied upon several judgments, which are discussed herein one by one as under:

Charan Dass Duggal Versus Brahma Nand, 1982(1) RCJ

789 by the Apex Court wherein it was observed that leave to defend must be granted where the tenant raises a triable issue making out a prima facie case against landlord's eviction suit on the ground of personal requirement. That judgment does not find application to the facts of the present case for the reason that the observations had been made with respect to a petition filed by the landlord seeking ejectment of tenant on the ground of personal necessity wherein application seeking leave to defend the ejectment petition had been filed by respondent – tenant. Here the situation is different. The petition has been filed by specified landlord, who is Non-Resident Indian, who intends to shift to India along with his wife regarding which a specific provision in the form of Section 13-B of the Act has been made. Furthermore, as observed supra, the tenant has failed to raise any triable issue and the objections so taken by him are not substantial or requiring leading of any evidence for adjudication.

As regards the next judgment i.e. **Nathi Devi Versus Radha Devi Gupta, 2005(1) RCR(Rent) 218** that related to right with a widow to recover immediate possession under Section 14D of the Delhi Rent

Control Act, 1958, whereas observations made therein are not helpful to the revisionist in any manner.

For similar reasons judgment *Nelson Christopher Versus Pritam Sigh, 2010(1) RCR(Rent) 16* had different facts where the tenant seeking leave to contest had taken up a plea that landlord owned and possessed another house in some urban area and the landlord had not shown as to what was ground of preference for getting the demised premises vacated and it was for that reason leave to contest was granted to the tenant, whereas no such situation is there.

As regards the judgment *Precision Steel and Engineering Works Versus Prem Deva Niranjana Deva Tayal, 1982(2) RentLR 352* by Apex Court, wherein it was mentioned that a Rent Controller has to grant or refuse to grant leave on the basis of affidavit of tenant, which is the only relevant document at the stage of granting leave. There cannot be any dispute with such proposition of law that application must disclose a ground showing a triable issue requiring leading of evidence and if the affidavit contents frivolous, evasive, general and sweeping allegations that does not make the tenant entitled to get leave to contest.

For similar reasons the other judgments i.e. *Santosh Devi Soni Versus Chand Kiran, 2001(1) SCC 255, K.G.P. Pillai Versus Subhash Chander Pathania, 1990(2) RCR(Rent) 386, Rajiv Panwar Versus Bahal Singh Dhindsa, 2013(2) RCR(Rent) 337, Prakash Chand Gupta Versus K.S. Gupta, 1999(1) RCR(Rent) 541, John Impex(P) Ltd. Versus Surinder Singh and others, 2003(9) SCC 176* and *Mrs. Kushal Takhar Versus Gurinder Singh, 2009(1) RCR(Civil) 629* relied upon by

learned counsel for the revisionist, those do not find application to the present case due to different facts and circumstances and the context in which such observations had been made.

15. On the other hand, learned counsel for the respondent/landlord had also relied upon judgment **Kamaljit Singh Versus Sarabjit Singh, 2014(SUPPL.) Civil Court Cases 607(S.C.)**, wherein it was observed that doctrine of estoppel is steeped in the principles of equity and good conscience since equity will not allow a person to say one thing at one time and the opposite of it another time; it would estop him from denying his previous assertion, act, conduct or representation to say something contrary to what was implied in the transaction under which he obtained the benefit of being let in possession of the property to be enjoyed by him as a tenant. It was observed that a tenant in possession of the property cannot deny the title of landlord under Section 116 of the Evidence Act and further Section 13-B of the Act is a beneficial provision intended to provide speedy remedy to NRIs who return to their native places and need property let out by them for their own requirement or requirement of those who are living with and economically dependent upon them.

16. The second judgment referred to by learned counsel for the respondent/landlord was **Lakhwinder Kumar Versus Pavitter Kaur (dead) through Lrs2010(2) RLR 74** wherein dealing with a case relating to filing of petition under Section 13-B of the Act when the landlord was residing in Canada but often visiting India, it was observed that it was not necessary for a Non-Resident-Indian-landlord to return permanently to

India and even if the respondent/landlord requires the demised premises for his occasional visits to India, he is entitled to evict the tenant.

17. I find that the impugned order passed by the Rent Controller, Ludhiana is detailed and well reasoned, which does not suffer from any illegality or infirmity and no interference therewith is called for while exercising revisional jurisdiction.

18. Thus, finding no merit in the civil revision petition, the same stands dismissed.

25.11.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No