

**103+232 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR-410-2019 (O&M)
Decided on:-07.12.2022**

Parminder Kaur

....Petitioner..

vs.

Amarjit Kaur and another

....Respondent.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Aayush Gupta, Advocate,
for the petitioner.

Mr. Satinder Khanna, Advocate,
for respondent No.1.

HARKESH MANUJA J. (Oral)

The present revision petition arises out of an order dated 17.08.2018 passed by the learned Rent Controller, Ludhiana, whereby, eviction petition filed under Section 13(b) of the East Punjab Urban Rent Restriction Act, 1949 (for short, "1949 Act") at the instance of respondent No.1-landlord, was allowed.

2. The brief facts of the case are that respondent No.1-landlord filed an eviction petition against present petitioner, invoking provisions of Section 13(b) of the 1949 Act. As per the original records, ejectment petition was filed before the learned Rent Controller on 13.03.2018, wherein, notices were issued for 09.04.2018. From the records, it can be seen that though notices issued to petitioner-tenant were not received back, however, one Sh. Abhay Ram Sharma, Advocate appeared and filed memo of appearance on her behalf. However, as no application under Section 18-A of the 1949 Act was filed within 15 days of service, learned Rent Controller

passed the ejectment order dated 17.08.2018, which has been impugned herein by way of present revision petition.

3. Learned counsel for the petitioner submits that the petitioner was never ever served in the ejectment petition nor she ever instructed Sh. Abhay Ram Sharma, Advocate to appear on her behalf before the learned Rent Controller and, as such, the ejectment order passed against her is liable to be set aside.

4. On the other hand, learned counsel for respondent No.1-landlord submits that in case, petitioner-tenant intends to question the validity of her service in the proceedings before the learned Rent Controller, the same requires evidence and for the said purpose, she needs to move an appropriate application before the same court.

5. Further, learned counsel for respondent No.1-landlord, on instruction submits that instead of going into the aspect of service upon petitioner-tenant, his client will have no objection, in case, petitioner-tenant is granted an opportunity by granting leave to contest the ejectment petition afresh and the proceedings before the learned Rent Controller are ordered to be finally concluded within a reasonable time without disturbing the delivery of possession of the tenanted premises made in pursuance to the previous ejectment order.

6. Having perused the original records, zimni orders passed by the learned Rent Controller as well as the concession made on behalf of respondent No.1-landlord, besides, the legal aspect to the effect that the contentions raised on behalf of petitioner-tenant may require some sort of oral as well as documentary evidence, I deem it appropriate to set aside the eviction order dated 17.08.2018 with a request to the learned Rent Controller to allow the petitioner-tenant to contest the eviction petition

based on the concession given by respondent No.1-landlord by granting her leave to defend with a further request to dispose of the ejectment petition afresh on merits within a period of six months from the date of receipt of certified copy of this order.

7. At this stage, learned counsel for the petitioner very fairly stated that his client will not ask for restoration of possession till the ejectment petition is decided afresh by the Rent Controller. In view thereof, the parties shall maintain status quo in the meanwhile.

8. The parties through their counsel to appear before the learned Rent Controller, Ludhiana on 20.12.2022.

9. Pending application(s), if any, shall also stand disposed of.

07.12.2022
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No