

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

CR-610-2022

Decided on:-30.08.2022

Pawan Kumar

....Petitioner..

vs.

Sat Pal

....Respondent.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Puneet Jindal, Sr. Advocate with
Mr. Amandeep Singh Meho, Advocate,
for the petitioner.

Mr. Tribhawan Singla, Advocate,
for the caveator-respondent.

HARKESH MANUJA J.

By way of present revision petition, the petitioner has impugned the orders dated 06.10.2017 and 17.11.2021 passed by learned Rent Controller as well as the Appellate Authority respectively, whereby an application for grant of leave to defend filed at the instance of the petitioner/tenant under Section 38(7) of the Punjab Rent Act, 1995 (for short, "Act"), has been dismissed.

2. The facts leading to the present revision petition are that the respondent herein filed an application under Section 24 of the Act (as amended up to date) for recovery of immediate possession/eviction of the petitioner/tenant from the rented out premises. Upon notice, the petitioner appeared before the learned Rent Authority, Nakodar and moved an

application for grant of leave to defend the eviction petition by invoking Section 38 (7) (b) of the Act. The learned Rent Authority, Nakodar, vide its order dated 06.10.2017, dismissed the application for grant of leave to defend, filed at the instance of the petitioner and simultaneously, through the same order, also ordered the eviction of the petitioner, on the application filed at the instance of respondent under Section 24(3) of the Act.

3. Aggrieved against the order dated 06.10.2017, petitioner approached the Appellate Authority, Jalandhar, however, the said appeal was also dismissed vide order dated 17.11.2021.

4. Besides merits on the point of grant of leave to defend, learned Senior counsel submits that the composite order passed by the learned Rent Authority on 06.10.2017, dismissing the application of the petitioner for grant of leave to defend as well as simultaneously, passing eviction order against him through the same order was totally illegal, as the same deprived him of his legal right of filing review before the Rent Authority as provided under Section 38(7) (e) of the Act, which is reproduced hereunder:-

“Where the leave to contest under clause (c) is denied to the tenant he may file an application for review before the Rent Authority within ten days of such denial and the Rent Authority shall endeavour to dispose of such application within seven days of its filing.”

5. At this stage, Sh. Tribhawan Singla, Advocate who is already appearing on behalf of the caveator/respondent submits that he has no objection, in case, the petitioner is granted an opportunity for filing of review before the learned Rent Authority, Nakodar as available to him under Section 38 (7) (e) of the Act.

6. In view of the statement made by learned counsel for the caveator/respondent, the order dated 17.11.2021 passed by the Appellate Authority, Jalandhar is hereby set aside and the order dated 06.10.2017 passed by the Rent Authority, is modified to the extent that the order of ejectment passed against the petitioner is hereby set aside. Although, the dismissal of prayer for leave to defend, sought for at the instance of the petitioner through the same order dated 06.10.2017 shall remain as operative and the petitioner shall be at liberty to file review invoking the provision of Section 38 (7) (e) of the Act, within a period of 10 days from the date of appearance of the parties before the learned Rent Authority. Needless to say that any order passed by the learned Rent Authority shall be subject to challenge by either of the parties in accordance with the statutory remedies available under the Act.

7. Accordingly, the instant petition is disposed off in the aforesaid terms. The parties are directed to appear before the Rent Authority, Nakodar on 08.09.2022. There is no order as to cost.

(HARKESH MANUJA)
JUDGE

30.08.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/ No