

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3382 of 2019 (O&M)
Date of Order: 01.04.2022

Rajinder Kumar Sharma

..Petitioner

Versus

Raj Kumar and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vaibhav Sehgal, Advocate
for the petitioner.

Mr. Rakesh Chopra, Advocate
for the respondents.

ANIL KSHETARPAL, J(Oral)

The petitioner assails the correctness of the order passed by the Rent Controller on 09.05.2019. In substance, the dispute is “whether after enforcement of the Punjab Rent Act, 1995 the petition filed under the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the 1949 Act') could be filed?

The petitioner contends that the rent petition could only be filed under the 1995 Act, after repeal of the 1949 Act.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

The learned counsel representing the petitioner contends that the eviction petition filed under the repealed Act must be considered to be non est, therefore, liable to be dismissed. He further contends that the Rent

Controller has erred in dismissing the application.

Per contra, the learned counsel representing the respondents contends that the rent agreement was executed during the applicability of the of 1949 Act and therefore, the petition was maintainable.

The argument of the learned counsel representing the respondents is erroneous because Section 75 of the 1995 Act, repealed the 1949 Act. The ejectment petition was filed before the Rent Controller in the year 2018. Admittedly, at that time, the 1995 Act came into force with effect from 30.11.2013. Whereas the Punjab (Amendment Act), 2014, came into force with effect from 29.08.2014. The Punjab Rent (General Rules), 2015 were enforced with effect from 05.06.2015.

However, there is another aspect of the matter. Admittedly, the ground on which the ejectment have been sought are available under the 1995 Act. The rent petition is at an initial stage. At the most, the petition can be said to be suffering from a curable defect. The question is “whether the High Court in exercise of supervisory jurisdiction dismiss the ejectment petition or permit a formal amendment so as to advance the cause of justice.

In the considered view of the Court, the second option would be in consonance with the intention of the Statute as the statute is a beneficial legislation. The Courts have been constituted to do substantive justice between the parties while making sincere endeavours to follow the procedural law.

With that spirit in mind, the eviction petition would be deemed to have been amended and filed under the new Act, i.e. the 1995 Act. The Rent Controller is directed to proceed with the matter in accordance with law.

Disposed of accordingly.

All the pending miscellaneous applications, if any, are also disposed of.

April 01, 2022

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(ANIL KSHETARPAL)
JUDGE

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