

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

CR-6030-2014

Date of Decision: July 25, 2023

RAMESH CHAND AND ORS

..... Petitioners

Versus

CHANO DEVI AND ANR

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Mohd. Yusuf, Advocate for petitioners.

HARKESH MANUJA, J. (ORAL)

1. By way of present revision petition, challenge has been laid to the judgment dated 04.07.2014 passed by Rent Controller, Jalandhar whereby an application seeking leave to defend, moved at the instance of petitioners-tenants was declined, followed by an eviction order passed against them.

2. In the present case, an eviction petition came to be filed against petitioners-tenants at the instance of respondents-Landlords, under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 1949 Act) while submitting that the respondents-Landlords happens to be NRI and the premises in question was required by them for their personal need. The eviction petition was filed on 09.06.2009 wherein, upon notice, the petitioners-tenants appealed and filed an application seeking leave to contest the same inter alia on the ground of denial of relationship of landlord and tenant besides raising other pleas.

CR-6030-2014**-2-**

3. The aforesaid application came to be dismissed on 14.07.2014 by the Rent Controller followed by an order of eviction of even date.

4. By way of present revision petition, the aforesaid judgment dated 14.07.2014 passed by Rent Controller Jalandhar has been impugned.

5. Learned counsel for petitioners submits that in view of the specific plea of denial of relationship of landlords-tenants having been raised in the application for leave to contest, the Rent Controller was required to, at least prima facie deal with the same before declining leave to contest and pass an eviction order. In the absence thereof, the impugned order needs to be set aside.

6. No one has chosen to appear on behalf of respondents despite all sincere efforts having been made in this regard and thus the matter is being heard in their absence.

7. I have heard learned counsel for the petitioners and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioners.

8. A perusal of the application for leave to contest shows that a specific plea of denial of relationship of landlord-tenant was raised by the petitioners-tenants, however, a perusal of impugned order shows that the same was never dealt with in its right earnest. Moreover, the petitioners-tenants also relied upon a judgment dated 16.07.2014 passed in ejectment application dated 16.07.2009 titled as “**Chano Devi**

CR-6030-2014

-3-

Vs. Gurbachana” pertaining to the same property wherein the finding was recorded to the effect that there was no relationship of Landlord-tenant between the parties. Relevant para 12 thereof is reproduced hereunder:-

“12. As a consequence, the petitioner has failed to prove that there is a relationship of landlord and tenant and she requires the premises for bona fide need and occupation and that the respondent is in arrears of rent. Hence issues No.1 to 3 are decided against the petitioner and in favour of the respondent.”

9. In view of the discussion made hereinabove, wherein the specific plea of denial of relationship raised at the instance of petitioner-tenant was never adjudicated upon by the Rent Controller while passing the impugned order of ejectment dated 04.07.2014 in exercise of powers under Section 13-B of 1949 Act, the same needs to be set aside.

10. In view thereof, the present revision petition is allowed and the impugned order dated 04.07.2014 is hereby set aside and the matter is remanded back to the Rent Controller so as to adjudicate upon the application for leave to contest afresh after affording opportunity to both the sides. However, considering the fact that the eviction petition in the present case was filed way back in the year 2009, the aforementioned exercise be carried out by the Rent Controller within a period of three months from today.

25.07.2023
tejwinder

(**HARKESH MANUJA**)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>

