

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

101

CR No.6619 of 2014 (O&M)

Date of Decision: 17.02.2023

Brij Kishore

....Petitioner

Versus

Narinder Singh

....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mohit Jaggi, Advocate for the petitioner.

Mr.Parvinder Singh, Advocate with
Mr. Ibadat S.Randhawa, Advocate
for the respondent.

Harsimran Singh Sethi, J. (Oral)

In the present petition, the challenge is to the order dated 31.07.2014 passed by the Rent Controller by which, the rent petition filed by the respondent-landlord under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the Rent Act') has been allowed.

Learned counsel for the petitioner argues that in the present case the eviction petition was filed by the respondent-landlord under Section 13-B of the Rent Act claiming to be non- resident Indian whereas,

he has not been able to prove the fact that he qualifies to be treated as NRI (non-resident Indian) under Section 2 (DD) of the Rent Act.

Learned counsel argues that nothing has come on record to show that the respondent is a permanent resident of a country other than India hence, as there is no evidence on record to prove that respondent-landlord qualifies the definition of non-resident Indian as per the Rent Act, the direction given by the Rent Controller by the impugned order for eviction of the petitioner-tenant under Section 13-B of 1949 Act is totally arbitrary and illegal.

Learned counsel for the respondent, on the other hand, submits that in fact, the petitioner is trying to mislead this Court by not advertng to the evidence, which has already come on record before the Rent Controller that the respondent-landlord is a permanent resident of Hong Kong and remains out of India for more than a period of six months every year. Learned counsel submits that the evidence i.e. the permanent resident card of the respondent-landlord showing him to be resident of Hong Kong is already on record as Ex.P-7 which had gone unrebutted. Hence, the direction given by the Rent Controller by impugned judgment dated 31.07.2014 directing the petitioner-tenant to vacate the premises is perfectly valid and legal.

I have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

Though, the petitioner is challenging the status of the respondent-landlord being an NRI but he has not been able to rebut the factum that there is a evidence on record showing the respondent-landlord to be the permanent resident of Hong Kong in the shape of Ex.P-7.

Further, nothing has been brought on record by the petitioner-tenant that the respondent-landlord remained in India for a period more than six months at any given point of time. Once as per the definition of NRI under the Rent Act, which has been reproduced in para 8 of the impugned judgment dated 13.01.2014, a person of Indian origin residing out side India permanently or temporarily for any purpose is a non-resident Indian. The permanent residence status of the respondent-landlord in Hong Kong has gone unrebutted. Hence, the argument that the respondent-landlord has wrongly been treated as NRI and that too, without any evidence, cannot be accepted being contrary to the facts and evidence on record.

Even otherwise, while passing the said order the Rent Controller has mentioned that the respondent-landlord stepped into the witness box to tender his evidence and no such question with regard to the validity of NRI status being claimed by the respondent-landlord was ever put to him so as to demolish his claim of being NRI. In the absence of any question being put to the respondent-landlord even during the cross-examination shows that there was no doubt even with the petitioner-tenant qua the status of the respondent-landlord as an NRI as envisaged under the Act. That being so, it cannot be said that the order passed by the Rent Controller dated 13.07.2014 is perverse to any fact or evidence, which has come on record. That being so, while exercising revisional jurisdiction, no ground is made out to interfere with the impugned order.

No other argument has been raised.

Keeping in view the above, no ground is made out for interference by this Court in the present revision petition.

Dismissed.

CM No.22155-CII of 2014; CM Nos.11714-15-CII of 2015;
CM No.4337-CII of 2016; CM Nos.7742-CII of 2021
and CM No.3033-CII of 2023

After arguing for some time, learned counsel for the petitioner submits that the present applications be disposed of as having been not pressed.

Ordered accordingly.

February 17, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes/No*
Whether reportable? *Yes/No*