

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

CR-1591-2023(O&M)

Reserved on:-22.3.2023

Date of Pronouncement:-27.3.2023

Harminster Singh @ Billu @ Harminster Singh

...Petitioner

Versus

Sukhbir Singh Sidhu @ Sukhvir Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Vikas Bali, Advocate
for the petitioner.

Mr.Dinesh Kumar, Advocate and
Mr.Arvind Galav, Advocate
for the respondent - caveator.

H.S. MADAAN, J.

1. Under challenge in this revision petition is the order dated 13.2.2023 passed by Rent Controller, Jagraon vide which learned Rent Controller while dismissing the application filed by applicant/tenant Harminster Singh @ Billu @ Harminster Singh for grant of leave to contest in the rent petition filed against him by respondent Sukhbir Singh Sidhu @ Sukhvir Singh, had directed the applicant to vacate the demised premises within a period of two months from the date of order. However, it was clarified that such order would not bar the right of the applicant to file the review application in spirit of the Punjab Rent Act, 1995.

2. Briefly stated, facts of the case are that petitioner/landlord Sukhbir Singh Sidhu @ Sukhvir Singh, a Non-Resident Indian (hereinafter referred to as NRI) having residence in U.K. had brought a

petition under Section 24(3) of the Punjab Rent Act, 1995 against respondent/tenant Harminder Singh @ Billu @ Harwinder Singh, seeking his eviction from the shop forming part of MC No.B-V-1307 situated at village Agwar Gujran-I, Tehsil Road, Jagraon. Notice of the petition was sent to respondent/tenant, who put in appearance and filed an application for leave to contest, which was opposed by the petitioner/landlord and vide the impugned order dated 13.2.2023 leave to contest was declined to respondent/tenant; resultantly the petition was allowed. For ready reference, Para No.17 dealing with relief granted is being reproduced as under:

17. The petitioner fully proved that he is NRI, copy of passport is on the file and it is also proved on record that he is owner of the property in dispute .As per the petition filed by him he has averred that he want to settle in India and want to spend his remaining life in India and the tenant can not dictate its term to the landlord when there is nothing on record from which any inference could be drawn that the requirement of the petitioner is not bonafide. So, I am of the considered view that there is no triable issue in favour of the respondent on which the leave to defend may be granted to the respondent to contest the present petition. So,the application filed by the respondent for leave to defend is hereby dismissed. The present petition is allowed and the ejectment order is passed against the respondent and in favour of the petitioner. The respondent is directed to vacate the demised shop within a period of two months from the date of order. However, this order

will not bar the right of the applicant to file the review application in spirit of The Punjab Rent Act, 1995 Act. Memo of costs be prepared. File be consigned to record room.

3. Such order left the respondent/tenant aggrieved and he has approached this Court by way of filing the present revision petition. The landlord had filed a caveat petition and put in appearance through counsel.

4. I have heard learned counsel for the parties besides going through the record.

5. The grouse of the revision petitioner is that after dismissal of the application filed by him seeking leave to contest, learned Rent Controller, Jagraon should have granted him time to file review application as provided under Section 38(7)(e) of Punjab Rent Act, 1995 within a period of 10 days from dismissal of the application but it was not so done and learned Rent Controller passed order for ejection of the tenant forthwith, in that way a composite order was passed, which is not legally permissible. In support of his arguments, learned counsel for the revision petitioner has referred to various judgments i.e. **Madan Lal Versus Salwinder Singh** passed by a Co-ordinate Bench of this Court in CR No.4564 of 2022, **Prabhveer Singh Versus Simardeep Singh** passed by a Co-ordinate Bench of this Court in CR No.2117 of 2022 and **Krishan Kumar and others Versus Kamla Devi and others**, 2016(1) RCR(Rent) 525.

6. Whereas learned counsel for the landlord has contended that the remedy available to the revision petitioner is by way of filing an

appeal before Appellate Authority i.e. District Judge/Additional District Judge at Ludhiana instead of filing a revision petition before this Court and furthermore no prejudice has been caused to the revision petitioner because learned Rent Controller, Jagraon while dismissing the application for leave to contest filed by the revision petitioner/tenant and allowing ejectment petition had granted him time of two months from the date of order to vacate the demised shop clarifying that the order will not bar the right of the applicant to file review application in spirit of Punjab Rent Act, 1995. Therefore, the revision petition deserves to be dismissed.

7. After hearing arguments, I find that learned Rent Controller, Jagraon has passed a detailed order giving reasons for dismissing the application for seeking leave to contest, coming to the conclusion that there is no triable issue in favour of the respondent on which the leave to defend may be granted to the respondent to contest the petition. With respondent having been granted a period of two months to vacate the demised shop and liberty to file review application, the respondent was not left with any grievance in that regard. The respondent wants the Court to adopt a hyper-technical approach in the matter. Though provision for filing an application for review is there but it is not forth coming as to how and why the order passed needs to be reviewed. The Rent Controller, Jagraon passing a detailed order denying leave to contest to the respondent/tenant and finding merit in the case of petitioner, asking him to review the order within 10 days of its passing would be nothing but an empty formality unless something had happened in the meanwhile favourable to the tenant and adversely affecting the case of the

petitioner/landlord, which in this case does not appear to be there. The impugned order in this case was passed on 13.2.2023 with liberty having been granted to the tenant to file review application, admittedly he has not filed any such application so far despite passage of more than one month. Thus it comes out that the interest of the revision petitioner is more in getting the order of ejectment set aside rather than filing any application for review.

8. With regard to the judgments referred to by learned counsel for the revision petitioner, those are not helpful to him due to different facts and circumstances and the context in which such observations had been made. In case ***Madan Lal Versus Salwinder Singh*** (supra) in para No.11 of this judgment, it has been observed as under:

11. No doubt, on a comprehensive reading of Section 50 and specifically Sub-Section 5 thereof, one can see through that the order impugned herein by way of present revision petition could have even been challenged before the Appellate Authority, however, considering the peculiar fact wherein both the parties have already been heard and the learned counsel representing respondent-landlord has nothing much to point out or oppose as regards the non-compliance of Clause(e) to Sub-Section 7 of Section 38 of the Act, I deem it appropriate to set aside the impugned order dated 30.8.2022 passed by the learned Rent Authority, granting opportunity to the petitioner to avail his statutory right of filing review under Clause (e) to Sub-Section 7 of Section 38 of the Act, within a period of 10 days from today which

shall be decided in accordance with law and the procedure prescribed.

In that way, it comes out that the revision petition was allowed keeping in view the peculiar circumstance where both the parties had already been heard. It was for that reason that the impugned order had been set aside. Whereas no such peculiar circumstances exist in the present case.

9. With regard to the judgment ***Prabhveer Singh Versus Simardeep Singh*** (supra) that order was mainly passed considering the contention of counsel for the petitioner that his eviction had been ordered from the demised premises before expiry of mandatory period of 10 days for review as provided under Section 38(7)(e) of the Act. As already pointed out earlier in this case, the respondent/tenant has been granted liberty to file application for review and he has not been asked to deliver possession of the shop forthwith rather two months time had been afforded to him for that purpose and till date no such application has been filed by the revision petitioner.

10. With regard to next judgment i.e. ***Krishan Kumar and others Versus Kamla Devi and others*** (supra), that mainly dealt with different issues relating to relationship of NRIs landlord and tenants under Section 13B of East Punjab Urban Rent Restriction Act, 1949.

11. The impugned order passed by the trial Court is quite detailed and well reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional

jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

12. Finding no merit in the revision petition, the same stands dismissed.

Since the main revision petition has been dismissed, the miscellaneous application(s), if any, stand disposed of accordingly.

27.3.2023

Brij

(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**