

2023:PHHC:140106
**132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-5749-2022 (O&M)
Date of decision: 02.11.2023

Paramjit Kaur

....Petitioner

Versus

Sukhjit Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Naresh Kumar Manchanda, Advocate for the
petitioner
Mr.N.S.Dandiwal, Advocate for the respondent

ANIL KSHETARPAL, J (Oral)

1. The petitioner herein is a tenant. He has been ordered to be evicted by the Rent Controller. His application for leave to defend was dismissed by the Rent Controller as no triable issue was involved in the petition. The correctness of the aforesaid order has been challenged in this revision petition.

2. Learned counsel representing the petitioner submits that the petition under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 was filed in the year 2020, whereas at that point in time the Punjab Rent Act, 1995 was in force. He submits that the respondent was required to file the eviction petition under the new Act.

3. This Court has considered the submissions made by the learned counsel representing the parties. It is not in dispute that under the Punjab Rent Act, 1995, a parallel provision for evicting the tenant is maintainable by the Non Resident Indian (NRI). In

fact, this issue has been examined in detail by this Court in CR-4308-2015 titled as ‘**M/s Green Roadways/Green Carriers vs. Darshan Singh Bhambra**’ decided on 28.02.2020, in the following manner:-

“At the outset, it must be noticed that Punjab Rent Act, 1995 was enforced with effect from 30.11.2013. However, powers of Rent Controller were given to the Executive Officers. Thus, a writ petition was filed in this regard. During the pendency of the writ petition, the eviction petitions before the Rent Controlelr were being filed in the entire State of Punjab, as per the interim order passed by this court, under the provisions of the 1949 Act. Thereafter, Division Bench disposed of the writ petition after noticing that Punjab Rent (Amendment) Act, 2014 has been enforced, conferring powers upon the Subordinate Judges Ist Class as Rent Authorities and the District & Sessions Judges as Appellate Authorities. The order passed by the Division Bench is extracted as under:-

Bar Council of Punjab and Haryana has filed this Public Interest Litigation (PIL) wherein they have prayed for issuance of a writ in the nature of certiorari quashing of Chapter Nos. V and VI of the Punjab Rent Act, 1995 being unconstitutional.

The main grievance raised in the present petition was with regard to the powers conferred under section 74 of the said Act of Rent Authorities and Additional Rent Authorities on Sub Divisional Magistrates, Sub Registrars and

*Joint Sub Registrars as per Rule 5 as also qua constitution of the Rent Tribunal as per Rule 7. The challenge to the aforesaid provision was made on the ground that it is in clear violation of the constitutional mandate of separation of powers between the judiciary and the executive and in this regard reliance was placed on the judgment of the Hon'ble Supreme Court in **Namit Sharma v. Union of India 2012 AIR SCW 5523**. Upon notice, the respondents put in appearance.*

On the last date of hearing, learned counsel appearing for the State had made a statement that the matter has been reconsidered and an amendment has been passed by the Vidhan Sabha for conferring the powers of Rent Authorities and Rent Tribunals on the judicial officers instead of Sub Divisional Officers etc. It was further stated that the bill is pending before the Governor for assent.

Mr. Amit Sethi, Addl. Advocate General, Punjab today states that assent of the Governor has been received and the amendment has become as Punjab Rent (Amendment) Act, 2014. As per the amended Act, the judicial powers have now been conferred upon the Subordinate Judges Ist Class as Rent Authorities and the District & Sessions Judges as Appellate Authorities. It is further stated that the amended Act has been notified on 29.08.2014.

In view of the fact that the judicial powers have now been conferred to the Subordinate Judges Ist Class as Rent Authorities

and the District & Sessions Judge as Appellate Authorities, the writ petition has rendered infructuous and is accordingly disposed of.”

In view thereof, the rent petition filed under the 1949 Act is maintainable, particularly when it was filed before 29.08.2014.

Still further, it is not in dispute that such special right available to the Non Resident Indians-land owners has also been provided under the Punjab Rent Act, 1995 under Section 24 of the Act. Therefore, it would not be appropriate to reject the petition at the stage of revision without any evidence of the fact that the tenants has suffered any prejudice. At the most, it is well settled that merely because a wrong provision of law has been referred to would not debar the court from passing appropriate orders in accordance with law in absence of proof of prejudice caused to the party aggrieved.”

4. For the reasons stated above, there is no ground to interfere with the order passed by the Rent Controller.

5. Hence, dismissed.

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

02.11.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE