

CR-290-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR-290-2022 (O&M)

Date of decision: 15.05.2024

JARNAIL SINGH

..Petitioner

Versus

ROOP RANI ALIAS SATYA RANI

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

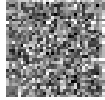
Present: Mr. Prateek Pandit, Advocate
for the petitioner.Mr. Baldev Singh Badhran, Advocate
for respondent (through video conferencing).ANIL KSHETARPAL, J(Oral)

1. This revision petition has been filed by the tenant to assail the correctness of order passed by the Rent Controller refusing to grant leave to contest to the petitioner, which in appeal has been affirmed by the Appellate Authority.

2. On 14.05.2024, the following order was passed:-

“In this case, the petitioner (tenant) assails the correctness of concurrent orders passed by the Courts below while refusing to grant leave to contest.

Learned counsel representing the petitioner submits that there is a significant change in the language of Section 24(3) of the Punjab Rent Act and Section 13-B of the East Punjab Urban Rent Restriction Act, 1949. He submits that under sub Section 3 of Section 24 an owner, who is a Non Resident Indian can file petition only if he returns to India for permanent residence, whereas, under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949, there was no requirement that a Non Resident Indian should first return to India before filing the petition.



List, in the urgent list, on 15.05.2024.”

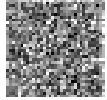
3. Once again, the matter has been heard at length.
4. From the reading of petition filed by the respondent, it is evident that she has not alleged that she had returned to India before filing of the petition. Para 4 of the petition filed by the owner reads as under:-

“4. That the petitioner is a Non-Resident Indian (NRI) living with her husband Jagdish Ram, sons Ashok Kumar & Rakesh Kumar in Canada and are Non-Resident Indians of Indian Origin. The petitioner and her husband are owners of the property as described above for the last more than 5 years. They have intended to settle in India and reside in the above house and to carry on the business in the shop marked A1, B1 & C1 as described above after reconstructing the same as per their requirement, as such, the petitioner require the demised shop for their personal use and occupation and need of the petitioner is quite bonafide. The sale deeds of residential portion and shop, along with passport are attached herewith. The respondent is thus liable to ejectment.”

5. In para 3(I) of the application for leave to contest the rent petition, the petitioner asserts as under:-

“I) That the present rent petition under Section 24 of the Punjab Rent Act is not maintainable at all and it does not lie because the present case does not fall within the Section 24 of the Punjab Rent Act. The petitioner has not shifted to India forever. The petitioner has been living in Canada and the petitioner has come to India only for a short period on visitor visa and she will go back to Canada where she is living permanently with her family members. So, the present petition under Section 24 of the Punjab Rent Act of the petitioner is not bonafide. Site plan attached with the petition do not pertain to suit premises and is wrong and false stating house of Handa instead of house of Chadha.”

6. In fact, the aforesaid issue has already been examined in **CR-4496-2018, titled as “Kuldeep Singh Vs. Rajwant Kaur”, decided on 25.04.2024**, in the following manner:-



“7. On a careful reading of Sub-Section (3), it is evident that a Non-Resident Indian is eligible to file petition under Section 24(3) of the 1995 Act if he or she is a Non-Resident Indian and returns to India for permanent residence. The language of Sub-Section (3) is different from the language employed in Section 13-B of the 1949 Act. In any case, at this stage, final opinion on the aforesaid interpretation is not required. The petitioner is only required to prove that she has a prima facie case to contest the petition.”

7. Keeping in view the aforesaid discussion, the petitioner is granted leave to contest the petition because the maintainability of petition filed by the respondent under Section 24(3) of the Punjab Rent Act, 1995, is debatable.

8. Consequently, the revision petition is allowed. The orders dated 16.05.2018 and 09.03.2021 are set aside. The petitioner's application for grant of leave to contest shall stand allowed. The Rent Controller is requested to proceed with the matter in accordance with law.

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

May 15th, 2024

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(ANIL KSHETARPAL)
JUDGE

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