

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 4539 of 2014 (O&M)

**Reserved On: 04.10.2023
Pronounced On: 05.01.2024**

Rajnish Kumar Sharma and Others
... Petitioner(s)

Versus

Ranjit Singh
... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Vaibhav Sehgal, Advocate
for the petitioner(s).

Mr. Sandeep Verma, Advocate
for the respondent.

Anil Kshetarpal, J.

1. This revision petition has been filed to assail the correctness of the Rent Controller's order passed on 29.05.2014 while dismissing the petitioners' (tenants') application for the grant of leave to contest the rent petition filed by the landlord (respondent herein) under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as "the 1949 Act").
2. Section 13-B of the 1949 Act makes a special provision for the Non Resident Indian owners i.e. N.R.I. owners to recover the immediate possession of the residential building, scheduled building or a non-residential building. Section 18A(4) of the 1949 Act enables the tenant to file an affidavit stating the grounds on which they seek to contest the petition.

The Rent Controller, after examining the matter, is required to decide the

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aforesaid application in accordance with law. Sub Section 5 of Section 18A of the 1949 Act provides that the Controller may grant leave to contest if the affidavit filed by the tenant discloses such facts as would disentitle the NRI landlord from seeking immediate possession of the property.

3. In this case, the Rent Controller has refused to grant leave to contest to the petitioners.

4. Heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book along with the requisitioned record.

5. The learned counsel representing the petitioners, while drawing the attention of the Court to para 2(b) and (i) of the affidavit, submits that the respondent is neither the owner of the demised premises nor there is any relationship of the landlord and tenant between the petitioners and respondent. He submits that in para 2(i), the petitioners have specifically asserted that the suit property is owned and possessed by Charanjit Singh Ahluwalia who had rented out the same to the petitioners' mother and the rent has been paid to him. He also contends that the Rent Controller has not applied his mind or examined the grounds specified in the affidavit, but has wrongly dismissed the application for leave to contest.

6. On the other hand, the learned counsel representing the respondent submits that the landlord has proved the ownership of the property as Harbhajan Kaur-respondent's mother had purchased the property vide sale deed dated 15.07.1970. After her death, the respondent succeeded to the property by virtue of the Will left behind by her.

7. This court has considered the submissions of the learned

counsel representing the parties. A careful perusal of the impugned order

shows that the Rent Controller has decided the matter in a very cursory manner which lacks thorough study of the facts of the case. Neither the Rent Controller has established identity of the property which was purchased vide sale deed dated 15.07.1970, with the disputed property nor the issue of relationship of landlord and tenant between the parties has been adjudicated. The Rent Controller is required to decide the application for the grant of leave to contest after analyzing the grounds disclosed in affidavit submitted by the tenants which disentitles the landlord from seeking eviction. The decision, which does not reflect in-depth study of the case, is not sustainable particularly when the doors of the tenant are being closed for all times to come. If the affidavit filed by the tenants discloses certain facts, then it is not appropriate to decide it in a shallow/cursory manner.

8. In these circumstances, this Court is left with no other choice but to set aside the impugned order passed by the Rent Controller while directing the Rent Controller to decide the matter afresh, positively, within a period of three months from the date of receipt of a certified copy of this order. The parties, through their learned counsel, are directed to appear before the Rent Controller on 31.01.2024.

9. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

January 05, 2024
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No