

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

113

CR-4496-2018 (O&M)
Date of decision: 25.04.2024

KULDEEP SINGH

..Petitioner

Versus

RAJWANT KAUR

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

Mr. Rishabh Gupta, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is a tenant. The respondent filed petition under Section 24 of the Punjab Rent Act, 1995 (hereinafter referred to as the '1995 Act') seeking petitioner's eviction on the ground that she bonafidely requires the premises and is entitled to immediate possession being Non-Resident Indian. The application for leave to contest was filed, which has been dismissed by the Rent Controller.

2. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

3. The learned counsel representing the petitioners submits that the respondent-landlady went on temporary VISA to Canada and U.K. and after the filing of this revision petition, she has got her permanent residency in Canada. He submits that as per Section 24(3) of the 1995 Act, a Non-Resident Indian is required to return to India for permanent residence before he or she can file a petition under Section 24 of the 1995 Act. He submits

that the language under the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the '1949 Act') has undergone a change in the new Act. He submits that the respondent does not fulfill the aforesaid requirement.

4. The learned counsel representing the respondent failed to draw the attention of the Court to any interpretation of Section 24 of the 1995 Act, which absolves landlord or landlady for coming back to India before filing the petition.

5. This Court has considered the submissions of the learned counsel representing the parties.

6. Section 24 of the 1995 Act reads as under:-

“[24. Right to recover immediate possession of premises to accrue to widows, handicapped persons, old persons freedom fighters and non-resident Indians. - (1) Where the landlord is, -

(a) a widow and the premises let out by her, or her husband; or

(b) a handicapped person and the premises let out by him or her; or

(c) a person who is of the age of sixty-five years or more and the premises let out by him or her; or

(d) a freedom fighter, his widow or dependent son or daughter and the premises let out by him or her;

is required by him or her for his or her family or for any one ordinarily living with him or her for residential or non-residential use, he or she may apply to the Rent Authority for recovery of immediate possession of such premises.

(2) Where the landlord referred to in sub-section (1) has let out more than one premises, it shall be open to him or her to make an application under that sub-section in respect of any one residential and one non-residential premises each chosen by him or her.

Explanation I. - For the purposes of this section "handicapped person" shall mean a person who is, as being an assessee, entitled for the time being to the

benefits of deduction under section 80U of the Income Tax Act, 1961.

Explanation II. - The right to recover possession under this section shall be exercisable only once in respect of each for residential and for non-residential use.

(3) Where and owner is a non-resident Indian and returns to India for permanent residence, he or she may apply to the Rent Authority for recovery of immediate possession of residential or/and non-residential premises let out by him or her on or prior to the commencement of this Act, which are required for his or her use, or for the Use of any one ordinarily living with and dependent on him or her.

Explanation. - "non-resident Indian" means a person of Indian origin, who is either permanently or temporarily settled outside India, in either case-

(i) for or on taking up employment outside India; or

(ii) for carrying on a business or vocation outside India; or

(iii) for any other purpose, in such circumstances, as would indicate his intention to stay outside India for an uncertain period.]”

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.

8. Hence, the revision petition is allowed and resultantly, the impugned order is set aside. The petitioner is granted leave to contest the petition filed by the landlady under Section 24 of the 1995 Act.

9. Since, the petition under Section 24 of the 1995 Act was filed on 17.11.2017 and nearly 6 and ½ (half) years have elapsed therefore, the Rent Controller is requested to expedite disposal of the petition.
10. The parties through their counsel are directed to appear before the Rent Controller on 27.05.2024.
11. All the pending miscellaneous applications, if any, are also disposed of.

April 25th, 2024

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(ANIL KSHETARPAL)
JUDGE

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