

2024:PHHC:023968
131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-1965-CII-2014
in/and
CR-7026-2015 (O&M)
Date of decision: 20.02.2024

M/s Brij Lal Dhari Lal & Sons

....Petitioner

Versus

Sh.Dev Raj Bhandari and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.G.N.Malik, Advocate for the applicant/petitioner

Mr. Sanjeev Pabbi, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

CM-1965-CII-2024

1. After hearing the learned counsel representing the applicant and for the reasons stated in the application, the order dated 12.01.2024 is recalled. The revision petition is restored to its original number.

2. CM stands allowed.

Main case

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. Under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as '1949 Act'), a Non Resident Indian has been authorized to file a petition to immediately seek eviction of a tenant. Section 18-A (5) of the 1949 Act enables the tenant to file an application for grant of leave to contest the ejectment

petition. The petitioners filed the application disclosing various grounds including ground (D) which reads as under:-

“(D) That even otherwise also M/s Ganda Mal Mool Raj, constructed a huge property adjoining to and near to the property in dispute, which was rented out to State Bank of Patiala, Branch Khanna which was later on got vacated and is lying vacant which is a big commercial property and this fact has deliberately been concealed by the firm M/s Ganda Mal Mool Raj and has another shop in dispute for which ejectment order is obtained by M/s Ganda Mal Mool Raj to which the petitioner has no concern and as such the petitioner is guilty of concealment of material facts and the petition is liable to be dismissed.”

The respondent, while replying to the aforesaid paragraph asserted as under:-

“(D) That in reply to this para of the application, it is stated that the shop in dispute is most suitable for the personal necessity of the petitioners. It is denied that the alleged buildings are available to the petitioners. As far as the other shop is concern, the revision filed by the tenant of the other shop is pending in the Hon’ble Punjab and Haryana High Court and that other shop has not been vacated. There is no concealment of fact on behalf of the respondents/petitioners.”

The Rent Controller has not examined the aforesaid ground as stated by the petitioners while deciding the application for permission to leave to contest the ejectment petition. Under the Rent Act, a tenant of a Non Resident Indian is only entitled to contest the eviction petition after he has been granted leave to contest. Hence, the Rent Controller, while deciding the leave to contest is expected to examine all the grounds on which the leave to contest has been sought.

Keeping in view the aforesaid circumstances, the impugned order passed by the Rent Controller is set aside, while requesting the Presiding Judge to decide the application afresh, within a period of one month, from the date of receipt of the certified copy of the order. The parties, through their counsels, are directed to appear before the Rent Controller, on 07.03.2024.

Disposed of.

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

20.02.2024
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE