

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****129****CR No.2930 of 2024****Reserved on : 14.05.2024****Date of Decision: 20.05.2024**

Ashish Kumar Verma

....Petitioner

VERSUS

Gunvinder Kaur and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rahul Rana, Advocate for the petitioner.

ALKA SARIN, J.

1. The challenge in the present revision petition is to the order dated 07.03.2024 passed by the Rent Controller dismissing the application filed by the tenant-petitioner for dismissal of the rent petition.

2. The brief facts relevant to the present *lis* are that the landlord-respondents filed a petition under Sections 20 and 24 of the Punjab Rent Act, 1995 for ejectment of the tenant-petitioner from Shop No.2 situated on the ground floor as detailed in the petition. The tenant-petitioner filed an application for dismissal of the ejectment petition on the ground that the present case would be governed by the provisions of the East Punjab Urban Rent Restriction Act, 1949 and not by the Punjab Rent Act, 1995. The said application was contested. Vide the impugned order dated 07.03.2024 the application has been dismissed by the Rent Controller.

3. Learned counsel for the tenant-petitioner would contend that the provisions of the East Punjab Urban Rent Restriction Act, 1949 would be



applicable in the present as the rent note in the present case is dated 20.05.2009.

4. Heard.

5. In the present case, earlier a petition was filed by the landlord-respondents bearing Rent Petition No.34 of 2017 under the East Punjab Urban Rent Restriction Act, 1949. In the said rent petition the tenant-petitioner took a plea that the claim of the landlord-respondents was based on a rent agreement dated 05.05.2014 and as such a petition under the East Punjab Urban Rent Restriction Act, 1949 was not maintainable. The rent petition was dismissed by the Rent Controller and the appeal against the said order was subsequently withdrawn. Thereafter, the present petition was filed under the Punjab Rent Act, 1995 and now in the present case the stand being taken is that the provisions of the East Punjab Urban Rent Restriction Act, 1949 would be applicable. It was the case of this very tenant-petitioner in the earlier petition that the provisions of the East Punjab Urban Rent Restriction Act, 1949 would not be applicable as the tenancy had commenced on 05.05.2014 and hence the provisions of the Punjab Rent Act, 1995 would be applicable. Subsequently, when the present petition was filed under the Punjab Rent Act, 1995 the petitioner filed an application averring that the petition is not even maintainable under the Punjab Rent Act, 1995 and would be maintainable under the East Punjab Urban Rent Restriction Act, 1949. It is apparent that the tenant-petitioner is vacillating and taking contradictory pleas only to defeat the rights of the landlord-respondents on one pretext or the other. The tenant-petitioner cannot be allowed to blow hot and cold. Having once taken a stand in the earlier rent petition about the Punjab Rent Act, 1995 being applicable and getting the earlier rent petition dismissed on



this ground, the tenant-petitioner cannot be permitted to take a somersault and take a diametrically opposite plea. The phrase ‘Approbate and Reprobate’ has been examined judicially and means that no party can be allowed to accept and reject the same thing and thus one cannot blow hot and cold. The application filed by the tenant-petitioner has rightly been dismissed by the Rent Controller vide the impugned order dated 07.03.2024. There is no illegality or irregularity in the impugned order.

6. In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

20.05.2024
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO