



CR-7168-2024(O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-7168-2024 (O&M)

Date of decision : 09.12.2024

Manoj Kumar

... Petitioner

Versus

Dhyan Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Samir Rathaur, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. Challenge in the present revision petition is to the order dated 18.07.2024 vide which the Rent Controller, Chandigarh, has dismissed the application filed by the present petitioner under Section 18-A of the East Punjab Urban Rent Restriction Act, 1949, for leave to contest the eviction petition and has directed the present petitioner to vacate the demised premises within a period of two months from the date of passing of said order.

2. Learned counsel for the petitioner has submitted that the premises in occupation of the present petitioner was in fact a commercial premises and thus, the provisions of Section 13-A of the East Punjab Urban Rent Restriction Act were not applicable in the present case. It is submitted that the said plea had been specifically taken in paragraph 2 (ii) of the

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application for leave to defend (Annexure P-7), however, the Rent Controller had not duly considered the said aspect and had passed the impugned order. It is submitted that since the provision of Section 13-A applies only in the case of a residential or scheduled building, and does not apply in the case of a non-residential building, thus, the petition filed by the respondent was not maintainable and the impugned order passed in the said petition is against law and deserves to be set aside.

3. This Court has heard the learned counsel for the petitioner and has perused the paper book.

4. The respondent had filed a petition dated 14.10.2015 under Section 13-A of the East Punjab Urban Rent Restriction Act for eviction of the petitioner from the demised premises, which in the rent petition was stated to be House no.3110, Mauli Jagran Complex, U. T. Chandigarh, on the plea that the respondent-landlord had let out the demised premises, which was part of the said house and was duly reflected as ABCD in the site plan, to the present petitioner in April, 2005 and that he was working as Literate Bearer with Government Multi Specialty Hospital, Sector 16, Chandigarh and was to retire on 31.12.2015 and regarding the same, a certificate issued by the competent authority i.e., Director, Health and Family Welfare, Chandigarh Administration, Chandigarh was also produced. Specific averments were made as to why the respondent-landlord was seeking possession of the house in question. An application for leave to defend was filed by the petitioner (Annexure P-7), which was opposed by the respondent-landlord vide reply dated 11.03.2016 (Annexure P-8).

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5. The Rent Controller vide impugned order dated 18.07.2024, as has been mentioned hereinabove, rejected the application of the petitioner for leave to contest and passed the order of eviction against the petitioner. While deciding the said application, the Rent Controller had taken into consideration the fact that the premises was a residential premises and the same was apparent from a perusal of the allotment letter bearing no.2644 dated 15.04.1993 which clearly showed that the demised premises was a dwelling unit. The contention raised on behalf of the petitioner that the said premises was a commercial premises, was thus rejected. The other aspects to the effect that the respondent-landlord was a “specified landlord” and was entitled to receive rent, were all held in favour of the respondent-landlord and it was observed that no triable issue was involved in the present case and thus, accordingly, the impugned order was passed.

6. The finding of the Rent Controller to the effect that a perusal of the allotment letter no.2644 dated 15.04.1993 showed that the demised premises was a dwelling unit has not been challenged before this Court. The allotment letter has not been annexed and it has not been stated that the allotment letter shows that the premises is commercial in nature. Moreover, there is no document produced along with the application to prima facie show that the premises in question is a commercial premises. It is a matter of settled law that for seeking leave to defend, the petitioner is required to prima-facie show that the point which he seeks to agitate, raises a triable issue. The same has not been done in the present case.

7. It would also be relevant to note that in the application for



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leave to contest in paragraph 2 (ii), the averment that the premises under the occupation of the petitioner is a commercial premises, was taken and to the said averment, a specific reply (Annexure P-8) was made in which it was stated that the said averment was absolutely wrong and was denied and it was reiterated that the demised premises was a residential premises as is clear from the allotment letter pertaining to the premises. The allotment letter is the best document to show as to whether the premises is a residential premises or is a commercial premises and since in the present case, it is not disputed that the allotment letter shows that premises was a dwelling unit and there is no material to show that the premises in question was a commercial premises, thus, the finding of the Rent Controller in the order dated 18.07.2024 is in accordance with law and the arguments sought to be raised on behalf of the petitioner are meritless and deserve to be rejected. The respondent meets the other necessary ingredients so as to bring the case within the purview of Section 13-A of the East Punjab Urban Rent Restriction Act, 1949 and the same have not been challenged before this Court and thus, the eviction order has been rightly passed.

8. Keeping in view the abovesaid facts and circumstances, the impugned order dated 18.07.2024 is upheld and the present petition being meritless, deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

December 09, 2024.
Davinder Kumar