2026:PHHC:077679

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

***

CR-332-2021
Date of decision : 18.05.2026

Meet Kumar

... Petitioner

Versus

Alkh Chand

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vijay Lath, Advocate
for the petitioner.

Mr. Vivek Singla, Advocate
for the respondent.

VIKAS BAHL, J.(ORAL)

1. Challenge in the present revision petition is to the judgment dated 11.02.2020 passed by the Appellate Authority, S.A. S. Nagar (Mohali) under the East Punjab Urban Rent Restriction Act, 1949, (hereinafter referred to as "1949 Act") vide which the appeal of the respondent/landlord has been allowed.

ARGUMENTS ON BEHALF OF THE PETITIONER

2. Learned counsel for the petitioner has submitted that even as per the case of the respondent, the tenancy was created by virtue of rent note dated 05.12.2017, which rent note was subsequent to the date on which the Punjab Rent Act, 1995 (hereinafter referred to as '1995 Act'), came into

force, i.e. w.e.f. 30.11.2013. It is submitted that the rent petition was filed on 18.02.2019 which is also subsequent to the enforcement of the said Act but the eviction petition has been filed under Section 13 of the 1949 Act. It is argued that as per Section 75 of the 1995 Act, on the commencement of 1995 Act, the 1949 Act stood repealed and it is only the cases in which the premises were let out prior to the commencement of the 1995 Act, that are to be governed by the 1949 Act. It is argued that thus, the petition under 1949 Act was not maintainable. It is further submitted that the sole ground on which the eviction was sought was non-payment of rent and even as per the case of the respondent, the legal notice requiring the petitioner to pay rent was issued on 07.01.2019, only providing 15 days to pay the rent and the eviction petition was filed on 18.02.2019 without the period of two months having elapsed. It is submitted that as per the provision of Section 20 (2)(a) of the 1995 Act, it is the mandate of law that the eviction petition can be filed only after a period of two months, after the notice in the form specified in schedule VII of the Act has been served and the tenant still does not pay the rent. Learned counsel for the petitioner has submitted that as per the said provision, the petition was premature.

ARGUMENTS ON BEHALF OF THE RESPONDENT

3. Learned counsel for the respondent, on the other hand, has submitted that a perusal of the eviction petition would show that it was specifically stated in paras 2 and 3, that the present petitioner was occupying the premises for the last more than six years and had paid rent

upto 30.11.2017 and subsequently, rent note dated 05.12.2017 was executed in which in addition to the rent of Rs.8000/- per month, 10% increase clause was provided. It is submitted that from the said averments, it is apparent that tenancy was prior to coming into force of the 1995 Act. It is argued that although, counsel for the petitioner had appeared before the Rent Controller but no written statement was filed by the present petitioner and thus, averments made in the said eviction petition were not controverted. It is argued that the petitioner cannot be permitted to raise pleas without even having controverted the said specific plea of the respondent by filing written statement, much less, leading any evidence regarding the same. It is further pointed out that even before the Appellate Authority, no such argument to the effect that the eviction petition is not maintainable under the 1949 Act was raised and thus, the petitioner is estopped from raising the said argument before this Court.

ANALYSIS AND FINDINGS

4. This Court has heard learned counsel for the petitioner and also learned counsel for the respondent and is of the opinion that the present revision petition is meritless, deserves to be dismissed and the impugned judgment dated 11.02.2020 passed by the Appellate Authority is in accordance with law and deserves to be upheld for the reasons stated hereinafter.

5. In order to consider the objections raised on behalf of the petitioner, it would be relevant to refer to the relevant provisions of the

1995 Act. Section 1 (4) of the 1995 Act provides that the Act shall come into force on such date as the State Government may specify in this behalf in the Official Gazette. Admittedly, the Act came into force w.e.f. 30.11.2013 vide notification dated 12.11.2012 published in the Punjab Government Gazette on 12.11.2013. Section 3(1) (a) of the 1995 Act specifically provides that nothing in this Act shall apply to any premises let out before the commencement of this Act. Section 3(1) of the 1995 Act is reproduced hereinbelow:-

> *" **[3.Premises exempted from the operation of the Act.-- (1) Nothing in this Act shall apply,-***
> ***(a) to any premises let out before the commencement of this Act;***
> *(b) to any premises belonging to or let out to the State Government or the Government of India or a local authority;*
> *(c) to any premises constructed on or after the commencement of this Act, for a period of fifteen years from the date of completion of construction;*
>
> *Explanation I. - The expression "date of completion of construction" shall mean the date of completion as intimated to the concerned authority or of assessment to property tax, whichever is earlier, and, where the premises has been constructed in stages, the date on which the initial building was completed and an intimation thereof was sent to the concerned authority or was assessed to property tax, whichever is earlier.*
>
> *Explanation II. - The expression "premises constructed" shall include-*
> *(i) re-building of more than seventy five per cent of an existing building; and*
> *(ii) additional construction to an existing building;"*

6. Section 75 of the 1995 Act provides for repeal and savings. Sub section (2) of the said section specifically provides that all cases and other

proceedings in respect of the premises let out prior to the commencement of this Act shall be governed and disposed of in accordance with the provisions of the Act so repealed i.e., the 1949 Act. Section 75 of the 1995 Act is reproduced hereinbelow:-

> *“[75.**Repeal and savings.-- (1) On the commencement of this Act, the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act No. III of 1949), is hereby repealed:***
>
> ***Provided that such repeal shall not affect,-***
>
> ***(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder;***
>
> ***(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed;***
>
> *(c) any penalty, forfeiture or punishment incurred in respect of any offence committed under the Act so repealed; and*
>
> *(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture,*
>
> *and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the repealing Act had not been passed.*
>
> *(2)* ***Notwithstanding the repeal of the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act No. III of 1949), under sub-section (1), all cases and other proceedings in respect of the premises, other than owned by a non-resident Indian, let out prior to the commencement of this Act shall be governed and disposed of in accordance with the provisions of the Act so repealed.]”***

7. From the above, it is clear that in case the premises have been let out before 30.11.2013, then, the East Punjab Urban Rent Restriction Act, 1949 would apply and the case would be required to be disposed of in accordance with the provisions of the 1949 Act.

8. In the present case, a perusal of the eviction petition which has

been filed by the respondent against the present petitioner under Section 13 of the 1949 Act would show that it was the case of the respondent that the present petitioner was occupying the shop in question for the last more than 6 years at a monthly rent of Rs.8000/- excluding electricity charges and the present petitioner was paying rent to the respondent herein up to 30.11.2017. Further averments were made with respect to the execution of the rent note dated 05.12.2017 in which the rent was settled at Rs.8000/- per month with 10% increase at the end of every year. The said eviction petition has not been annexed with the present petition but the same has been handed over during the course of arguments by learned counsel for the respondent, which petition has been stated to be the correct petition by the learned counsel for the petitioner and is taken on record as Mark A. Paragraphs 2 and 3 of the said petition are reproduced hereinbelow:-

> *"2. **That the respondent is occupying the demised shop for the last more than 6 years at a monthly rent of Rs. 8000/- excluding electricity charges and the respondent has been paying the rent to the petitioner up to 30.11.2017.***
>
> *3. That on 5.12.2017 a Rent Note was executed by the respondent in favour of the petitioner and the rent was settled at Rs. 8000/- per month **with 10% increase at the end of every year."***

9. It is not in dispute that the said rent petition was instituted on 18.02.2019. Six years period as mentioned in paragraph 2 would thus show that the petitioner was inducted as a tenant in the premises in question in February, 2013 which is prior to 30.11.2013 the date on which the 1995 Act came into force. Even a perusal of paragraph 2 of the judgment dated

22.07.2019 passed by the Rent Controller would reaffirm the fact that the specific plea of present respondent was that the petitioner was a tenant in the premises for the last more than 6 years. Importantly, a perusal of the paragraph 4 of the said judgment dated 22.07.2019 would show that although the counsel for the present petitioner had appeared before the Rent Controller and even had filed his power of attorney but thereafter did not come and on 03.05.2019 was proceeded against ex-parte.

10. On a specific query put by this Court, it is fairly admitted before this Court that no written statement was filed. Thus, the averments made by the respondent in the eviction petition were not even remotely controverted and it would not now be open to the petitioner to raise a plea without any factual basis and without having controverted the specific averment made in the eviction petition. The Rent Controller vide judgment dated 22.07.2019 had however dismissed the eviction petition. The respondent filed an appeal before the Appellate Authority on 02.08.2019 and the Appellate Authority after considering all the aspects allowed the said appeal. A perusal of the same would show that no argument was raised on behalf of the present petitioner on the aspect that the eviction petition under the 1949 Act was not maintainable. In fact even the Rent Controller had not dismissed the eviction petition on the said ground. In the said facts and circumstances the ground raised before this Court to the effect that the eviction petition under the 1949 Act was not maintainable, is meritless and deserves to be rejected. Moreover, once the first ground is found to be

meritless, then the next ground of challenge made by the petitioner would not survive as the provision of Section 20(2)(a) of the 1995 Act would not apply in the present case. A perusal of the judgment of the Appellate Authority would show that the Appellate Authority had taken into consideration the evidence and documents on record and had come to the conclusion that there was relationship of landlord and tenant between the parties and had further observed that the evidence produced by the respondent on the said aspect had gone unrebutted and unchallenged. Since the petitioner had not paid the rent to the respondent, the eviction petition was allowed on the ground of non-payment and the petitioner was granted two months time to vacate the premises. The finding of the Appellate Authority has neither been shown to be perverse nor against law.

11. Keeping in view the above said facts and circumstances, the judgment of the Appellate Authority is upheld and the present petition being meritless, is dismissed.

12. Pending application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

May 18, 2026.
Davinder Kumar/Pawan

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