
(1992) 07 P&H CK 0019
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 492 of 1992

Prof. Bhupinder Singh, Advocate

APPELLANT

Vs

Sohinder Singh

RESPONDENT

Date of Decision : 09-07-1992

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 2 Rule 2
East Punjab Urban Rent Restriction Act, 1949 — Section 13, 13A, 18A(9)

Citation : (1992) 102 PLR 506 : (1992) 2 RCR(Rent) 406

Hon'ble Judges : N.K. Kapoor, J

Bench : Single Bench

Advocate : R.S. Bindra and Party in Person, for the Appellant; Arun Jain and Sudhir Aggarwal and Party-in-Person, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Kapoor, J.—This is tenant's revision petition against the order of Sub-Judge Ist Class, Chandigarh declining his application for staying the proceedings u/s 13-A of the Rent Restriction Act.

2. The petitioner filed an application under Order 2 Rule 2 of the CPC on the ground that the landlord instituted a petition for his eviction u/s 13 of the East Punjab Rent Restriction Act on 19-11-1990 which matter is still pending before the Rent Controller. Since the petitioner did not seek relief of obtaining immediate possession of the demised premises, as now sought u/s 13-A of the Act, such a claim is barred under Order 2 Rule 2 of the Code of Civil Procedure. It was further stated that the landlord on his own averment was stated to be retiring from 30-11-1990 and thus this relief could well be claimed even when application u/s 13 of the Rent Restriction Act was filed by him. As the landlord on his own had chosen not to seek the relief of immediate possession proceedings u/s 13-A of the Act are liable to be stayed.

3. The respondent-landlord put in appearance and averred that the application u/s 13 and, 13-A of the East Punjab Rent Restriction Act are quite distinct from

each other and this way the provisions of Order 2 Rule 2 of the CPC are not applicable nor this provision can be attracted to a rent petition. The respondent landlord further submitted that he could exercise his right in terms of Section 13-A of the Act within one year of his retirement and this way too the provision of Order 2 Rule 2 of the CPC are not attracted.

4. The sole contention of the learned counsel for the petitioner is that eviction now sought u/s 13 and the prayer for immediate possession made u/s 13-A of the Act almost cover identical ground. Since the landlord of his own volition did not avail the remedy available in terms of Section 13-A of the Act when application u/s 13 of the East Punjab Rent Restriction Act was filed, debars him from pursuing the same in view of Order 2 Rule 2 of the Code of Civil Procedure.

5. I am afraid that this contention of the learned counsel is far fetched. Both the provisions are on different footing even if the purpose of both the petitions is almost the same i.e. to get eviction of the petitioner. The Rent Controller is a persona designata under the East Punjab Rent Restriction Act who acts as a quasi-judicial tribunal to decide the matters covered by the Act and thus has not the trappings of a Civil Court. The Tribunal is well within its rights to regulate its own procedure. The provisions of Order 2 Rule 2 of the CPC cannot be said to be applicable in a rent petition. Another objection raised by the counsel for the petitioner is that since the right to file a petition u/s 13-A of the Act accrued to the landlord before the filing of the petition u/s 13 of the Act; the present petition filed subsequently is liable to be, stayed. A bare perusal of the Section 13-A of the Act makes it amply clear that the landlord could file a petition a year prior or within one year after the date of retirement. Thus, I find no merit in this submission of the counsel also. Resultantly, this petition is without any merit and accordingly the same is dismissed.