
(2011) 04 P&H CK 0082

In the Punjab And Haryana At Chandigarh

Case No : CR No"s. 8163, 8164 and 8167 of 2010 (O and M)

Rajinder Kaur

APPELLANT

Vs

Gurdev Singh Dhillon

RESPONDENT

Date of Decision : 21-04-2011

Acts Referred:

East Punjab Urban Rent Restriction Act, 1949 — Section 13B, 18A, 18A(5)

Citation : (2011) 163 PLR 43

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J.—This order shall dispose of three Civil Revisions namely, CR No. 8163, 8164 and 8167 of 2010, which have been filed by different tenants against the same NRI landlord, whose applications filed u/s 18A(5) of the East Punjab Urban Rent Restriction Act, 1949 (for short "the Act") for seeking leave to defend the petition filed u/s 13B of the Act have been dismissed.

2. Learned Counsel for the Petitioner(s) has raised two arguments namely, (i) that the NRI landlord has not disclosed the business which is sought to be carried out by him in the demised premises, (ii) that the petitions have been filed through Special Power of Attorney who cannot depose a fact which is in the knowledge of the donor of the attorney. In support of his submission, he has relied upon a decision of this Court rendered in CR No. 1171 of 2008 titled as "Ramji Dass v. Krishan Lal Mahmotra" decided on 22.11.2010 and a decision of the Supreme Court in the case of "Man Kaur (dead) by L.Rs. v. Hartar Singh Sangha 2011 (1) RCR 189.

3. In reply to the first argument, learned Counsel for the Respondent/landlord has submitted that it is not necessary for the landlord to disclose the business which is to be conducted in the demised premises after its vacation because all that is required is that he required the demised premises for his personal use

and occupation. In support of his submission, he has relied upon a decision of this Court in the case of "Khushal Chand v. Jaspal Singh 2009 (1) RCR 187. In reply to the second argument, learned Counsel for the Respondent submits that in view of the decision of the Full Bench of this Court rendered in CR No. 1493 of 2010 titled as "Anwar Ali v. Gian Kaur decided on 9.11.2010, the landlord is not supposed to prove anything after the dismissal of the application filed u/s 18A of the Act as eviction order would follow ultimately.

4. I have heard learned Counsel for the parties and perused the record. Insofar as the first argument raised by learned Counsel for the Petitioner(s) is concerned, the landlord is only supposed to urge that the demised premises is required for his own use and occupation or for the person dependant upon him. Hence, the first argument raised by the learned Counsel for the Petitioner(s) is rejected. Insofar as the second argument is concerned, in the case of Man Kaur (Dead) by Lrs. (Supra), Supreme Court has observed that the power of attorney can make a statement about the facts in his personal knowledge but he cannot make a statement about the facts which is in the knowledge of the donor of the power of attorney. There is no dispute with the law laid down by the Supreme Court, however, after the decision of the Full Bench of this Court in the case of Anwar Ali (Supra) , the matter has been set to rest, which was once raised by the tenants by virtue of judgment of the Supreme Court in Civil Appeal No. 347 of 2009 titled as "Kamal Raj Bansal v. Rajpal Singh decided on 19.1.2009 in which it was held that after the rejection of the leave to defend, landlord is obliged to prove his case by appearing into witness box. The Full Bench has held that the decision in the case of Kamal Raj Bansal (Supra) does not erode the efficacy of the ratio of the judgment of the Apex Court in Baldev Singh Bajwa Vs. Monish Saini, and for that matter the landlord is not required to appear before the Court to make statement about personal necessity.

5. In view thereof, I do not find any merit in all the three revision petitions filed by the tenants and nor do I find any question of law to disturb the orders passed by the learned Rent Controller. Hence, all the three revision petitions are hereby dismissed though without any order as to costs.

6. A photocopy of this order be placed on the files of other connected cases.