
(2010) 04 P&H CK 0177
In the Punjab And Haryana At Chandigarh

Suresh Kumar

APPELLANT

Vs

Ravinder Singh Johal

RESPONDENT

Date of Decision : 09-04-2010

Acts Referred:

East Punjab Urban Rent Restriction Act, 1949 — Section 15(5)

Citation : (2010) 2 RCR(Rent) 82

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Judgement

L.N. Mittal, J.—This is revision petition by tenant Suresh Kumar u/s 15(5) of the East Punjab Urban Rent Restriction Act, 1949 (for short, the Rent Act). However, in fact the instant revision lies under proviso to Section 18-A (8) of the Rent Act.

2. Respondent Ravinder Singh Johal (hereinafter to be referred as landlord) filed ejectment petition u/s 13-B of the Rent Act for ejectment of petitioner-tenant from demised shop. The tenant was served with summons of the ejectment petition on 20.7.2007 for 30.7.2007. Accordingly, the tenant put in appearance through counsel before the Rent Controller on 30.7.2007. Tenant's counsel sought adjournment for filing application for leave to defend the ejectment petition. The case was adjourned to 13.8.2007 and again to 13.9.2007. The petitioner filed application for leave to contest the ejectment petition on 14.8.2007. The said application has been dismissed by learned Rent Controller vide detailed order dated 16.2.2010 and consequently, ejectment petition has been allowed granting two months time to the tenant to hand over vacant possession of the demised shop to the landlord. Feeling aggrieved, the instant revision petition has been preferred.

3. I have heard learned Counsel for the petitioner and perused the case file.

4. As per provisions of Section 18-A of the Rent Act read with Schedule-II to the Rent Act, application for leave to contest ejectment petition filed u/s 13-A or Section 13-B of the Rent Act had to be filed within 15 days of the service of the

summons. In the instant case, tenant was served with summons on 20.7.2007 but the tenant filed the application for leave to contest ejectment petition on 14.8.2007 i.e. after the expiry of prescribed period of 15 days. Consequently, the tenant's application for leave to defend ejectment petition has been rightly dismissed by learned Rent Controller being time barred. As an automatic necessary consequence, the ejectment petition had to be allowed and has, therefore, been rightly allowed. Learned Senior counsel for the petitioner-tenant is very fair to submit that this Court in two cases namely Krishan Lal alias Kalla v. Des Raj Sethi 1988(1) PLR 273 and Harnek Singh v. Paramjit Singh 2009(4) RCR (Civil) 42 has held that application for leave to defend ejectment petition filed u/s 13-A of the Rent Act has to be preferred within 15 days of the service of summons of the ejectment petition and the said period is not extendable and delay in filing the application for leave to defend the ejectment petition cannot be condoned. Same provision is applicable to ejectment petition u/s 13-B of the Rent Act. Consequently, in view of these two judgments of this Court, there was no option with the Rent Controller but to dismiss the tenant's application for leave to defend ejectment petition as time barred. As a necessary consequence, the ejectment petition has been rightly allowed.

5. In view of the aforesaid, I find no merit in the instant revision petition. The same is accordingly dismissed.

6. Learned Counsel for the petitioner, on instructions from son of the petitioner tenant present in person in Court prays that the petitioner tenant may be allowed two months time from today to peacefully hand over vacant possession of the demised premises to landlord without necessity of filing the execution petition. It is stated that the tenant-petitioner is running a stationery shop and since the schools have opened for new session, it is peak business period for the petitioner tenant.

7. In view of the aforesaid, the prayer is allowed. The petitioner tenant is granted two months time from today to hand over peaceful vacant possession of the demised shop to the respondent landlord without requiring landlord to file execution petition. The petitioner-tenant shall file undertaking by way of affidavit before the Rent Controller within 15 days from today undertaking to pay the rent/mesne profits at the agreed rate to the respondent-landlord or by depositing the same before the Rent Controller at the agreed rate of Rs 1050/- per month and also undertaking to hand over peaceful vacant possession of the demised shop to the respondent landlord within two months from today. If the requisite undertaking is not furnished or if the amount of rent/mesne profits is not deposited within 15 days from today, the impugned order of ejectment shall become executable at once.

8. The revision petition stands disposed of accordingly.