

(2011) 02 P&H CK 0455

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 962 of 2011 (O and M)

Manvinder Singh

APPELLANT

Vs

Harjeet Kaur Gill

RESPONDENT

Date of Decision: Feb. 10, 2011

Acts Referred:

- East Punjab Urban Rent Restriction Act, 1949 - Section 13B, 18A
- Representation of the People (Amendment) Act, 2010 - Section 2
- Representation of the People Act, 1950 - Section 20A

Citation: (2011) 162 PLR 542 : (2011) 3 RCR(Civil) 302

Hon'ble Judges: Rakesh Kumar Jain, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Rakesh Kumar Jain, J.

The question involved in this revision petition is as to "whether a person of Indian origin, who acquires the citizenship of another country, ceases to be a Non Resident Indian".

2. The tenant has challenged the order of eviction dated 10.06.2010 before this Court. Though it was not appealable, yet he filed an appeal before the learned Appellate Authority which was dismissed on the ground of non-maintainability on 30.11.2010.

3. The landlord filed a petition u/s 13-B of the East Punjab Urban Rent Restriction Act, 1949 [for short "the Act"] in order to seek eviction of the Petitioner/tenant from the ground and first floors of the showroom SCF Old No. 132/6 (New No. 684), Kesho Ram Complex Ekta Market, Burail, U.T. Chandigarh on the ground that it is required for use and occupation of her son.

4. The tenant filed an application u/s 18-A of the Act which was dismissed on 10.06.2010. He challenged the said order before this Court, however, on the same day i.e. 10.06.2010, the Rent Controller passed the order of eviction which was initially assailed by way of appeal by the tenant and is now being challenged before this Court in the present revision petition. The sole grievance of the tenant as projected in this case is that since the landlord has obtained citizenship of the United States of America [for short "USA"] as she has got a passport w.e.f. 24.04.2007 to 23.04.2012, therefore, she is ceased to be a NRI. To support his argument, learned Counsel for the Petitioner/tenant has referred to Section 20A of the Representation of People Act, 1950 [for short "the Act of 1950"], which has come into being by virtue of Section 2 of the Representation of People (Amendment) Act, 2010. It is argued that once the landlord has become a citizen of another country, she has lost the status of NRI and is not entitled to file eviction petition in terms of Section 13-B of the Act. On the other hand, learned Counsel for the Respondent has submitted that NRI is defined in Section 2(dd) of the Act which does talk of citizenship of a person of Indian origin.

5. I have heard both the learned Counsel for the parties and perused the record with their able assistance.

6. The sole argument of the Petitioner is based upon Section 20A of the Act of 1950 and in order to appreciate his submission, Section 20A of the Act of 1950 needs to be reproduced which reads as under:

20A.(1) Notwithstanding anything contained in this Act, every citizen of India,-

(a) whose name is not included in the electoral roll;

(b) who has not acquired the citizenship of any other country; and

(c) who is absenting from his place of ordinary residence in India owing to his employment, education, or otherwise outside India (whether temporarily or not), shall be entitled to have his name registered in the electoral roll in the constituency in which his place of residence in India as mentioned in his passport is located.

(2) The time within which the name of persons referred to in Sub-section (1) shall be registered in the electoral roll and the manner and procedure for registering of a person in the electoral roll under Sub-section (1) shall be such as may be prescribed.

(3) Every person registered under this section shall, if otherwise eligible to exercise his franchise, be allowed to vote at an election in the constituency.

7. A close look of this provision would show that it deals with the right of an Indian who is absenting from the place of his ordinary residence in India owing to his employment, education, or otherwise living outside India to have his name registered in the electoral roll in the constituency in which his place of residence in India as mentioned in his passport is located or if his name is already included in the

electoral roll or he has not acquired the citizenship of any other country. This provision has no bearing on the definition of Non Resident Indian which is specifically defined in Section 2(dd) of the Act and it reads as under:

[(dd) "Non-resident Indian" means a person of Indian origin, who is either permanently or temporarily settled outside India in either case-

(a) for or on taking up employment outside India; or

(b) for carrying on a business or vocation outside India; or

(c) for any other purpose, in such circumstances, as would indicate his intention to stay outside India for a uncertain period;]

8. According to the aforesaid definition, a person of Indian origin who, for the purpose of taking up employment, business or any other purpose, permanently or temporarily settled outside India is a NRI. The Legislature has not consciously added any exception in this provision to say that a person of Indian origin who obtains citizenship of another country would cease to be a Non Resident Indian, therefore, the provisions of Section 20A of the Act of 1950 is of no help to the Petitioner.

9. Learned Counsel for the Petitioner has also argued that the landlord has filed eviction petition immediately after letting it out which proves his greed and not the need. In this regard, learned Counsel appearing for the Respondent, who is on caveat, has submitted that although the premises was in fact let out in the year 2000, but still there is no bar u/s 13-B of the Act to seek eviction immediately after it has been let out. He also submits that this argument was not even raised before the learned Rent Controller.

10. I find force in the argument of the learned Counsel for the landlord and as such this submission of the tenant is found to be of no consequence. Hence, in view of the aforesaid discussion, I do not find any merit in the present revision petition and the same is hereby dismissed, however, without any order as to costs.