

2008 PLRonline 0106

Pran Nath v. Avtar Singh

Punjab and Haryana High Court

JUSTICE MAHESH GROVER

Pran Nath v. Avtar Singh

CR No. 208 of 2008

11.12.2008

East Punjab Urban Rent Restriction Act, 1949 , Section 13-B, 18-A - Summons not issued in the proper format as prescribed in the Schedule II - Section 13-B of the Act is a special enactment laying down a specific procedure - Proceedings can not be tried in an ordinary course by treating it as a rent petition - Respondent made an application for leave to defend but the learned Rent Controller observed that since the summons were not issued in the proper format as prescribed in the Schedule II of the Act and were issued under the ordinary process, therefore, the proceedings be tried in an ordinary course by treating it as a rent petition - Section 13-B of the Act is a special enactment which lays down a specific procedure and the same cannot be defeated in the manner which is sought to be done by the learned Rent Controller - It was imperative upon the Rent Controller to answer the controversy by taking these facts into consideration while determining the application for permission to contest and not to give it a new twist to say that the proceedings be tried in a manner which is totally alien to the provision of law which has been invoked before the learned Rent Controller - Order is set aside and the matter remitted back .

Mr. Jai Deep Verma, Advocate for the petitioner. Mr. L.S.Sidhu, Advocate for the respondents.

MAHESH GROVER, J - This revision petition is directed against the order dated 19.11.2007.

2. The petitioner had preferred as petition against the respondent- tenant pursuant to the provisions of Section 13-B of the East Punjab Urban Rent Restriction Act. The respondent made an application for leave to defend but the learned Rent Controller observed that since the summons were not issued in the proper format as prescribed in the Schedule II of the Act and were issued under the ordinary process, therefore, the proceedings be tried in an ordinary course by treating it as a rent petition. Section 13-B of the Act is a special enactment which lays down a specific procedure and the same cannot be defeated in the manner which is sought to be done by the learned Rent Controller. It was imperative upon

the Rent Controller to answer the controversy by taking these facts into consideration while determining the application for permission to contest and not to give it a new twist to say that the proceedings be tried in a manner which is totally alien to the provision of law which has been invoked before the learned Rent Controller. Therefore, the impugned order is set aside and the matter is remitted back to the learned Rent Controller for deciding the issue for leave to defend afresh.

3. Let the needful be done within a period of three weeks. Parties are directed to appear before the learned Rent Controller on the date fixed ie. 27.1.2009.

4. Disposed of.