

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

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*C.M. Nos. 21318-19-CII of 2014,  
C.M. Nos. 1071-72-CII of 2013 and  
C.R. No. 298 of 2013*

*Date of decision: 22.09.2015*

*Meenakshi Bakshi and another*

**....PETITIONERS**

**VERSUS**

*Miyan Singh Nain and others*

**....RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Amit Jhanji, Advocate,  
for the petitioners.

Mr. Manjit Singh, Advocate,  
for the respondents.

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**AUGUSTINE GEORGE MASIH, J.**

**C.M. No. 1071-CII of 2013**

Prayer in this application is for exemption from filing certified copies of impugned judgments and Annexures P/1 to P/4 and true typed copy of Annexure P/1, P/2 and P/4 (Colly) and for placing on record the true typed copy of Annexure P/3 as well as impugned judgments and photocopy of Annexure P/1, P/2 and P/4 (Colly).

Prayer granted. Filing of certified copies of impugned judgments and Annexures P/1 to P/4 and true typed copies of Annexures P/1, P/2 and P/4 (Colly) is dispensed with. True typed copy of Annexure P/3 as well as impugned judgments and photocopy of Annexure P/1, P/2 and P/4 (Colly) are taken on record.

Application stands disposed of.

**C.M. No. 21318-CII of 2014**

Prayer in this application is for exemption from filing certified as well as true typed copies of Annexures P/5 to P/9.

Prayer granted. Filing of certified as well as true typed copies of Annexures P/5 to P/9 is dispensed with.

Application stands disposed of.

**C.M. No. 21319-CII of 2014**

Prayer in this application is for permission to place on record documents i.e. Annexures P/5 to P/9.

Prayer granted. Documents i.e. Annexures P/5 to P/9 are taken on record.

Application stands disposed of.

**C.R. No. 298 of 2013**

This revision petition has been preferred by the tenants challenging the order passed by the Rent Controller, Panchkula dated 13.06.2012 allowing the petition filed by respondents No. 1 and 2-landlords filed under Section 13 (2) and 3 (a) (i) of the Haryana Rent (Control and Eviction) Act of 1973 (hereinafter referred to as 'Rent Act') and the order dated 17.12.2012 passed by the Appellate Authority, Panchkula dismissing the appeal filed by the petitioners-tenants.

2. It is the contention of the learned counsel for the petitioners that the respondents are neither the owners of the property nor are they the landlords. He contends that the petitioners are the owners of the property as their predecessor-in-interest, namely, Kuldeep Kumar, with an intention to settle his sister Smt. Ramesh Sharma, purchased the plot and constructed house on the same as there were differences between his sister and her

husband. A power of attorney was executed by Smt. Ramesh Sharma in favour of Kuldeep Kumar, which clearly establishes that the property was bought in the name of Smt. Ramesh Sharma out of the resources of Kuldeep Kumar. In short, it is asserted that it was benami property. He, on this basis, contends that there could be no relationship of landlord and tenant between Sh. Kuldeep Kumar and Smt. Ramesh Sharma. The respondents assert themselves to be the owners of the property on the basis of a sale deed entered into between Smt. Ramesh Sharma and the respondents, which is not a legal document. Counsel further contends that the Rent Controller has no jurisdiction to determine the title of the property and since the Civil Suit was pending with regard to the title of the property, the Rent Controller should have adjourned the matter till the decision of the said suit. In support of this contention, he places reliance upon the judgments of this Court in the case of **Mohinder Singh vs. Ram Nath**, 1985 (1) R.C.R. (Rent) 642. He, accordingly, contends that the orders impugned are not sustainable. That apart, he contends that the bona-fide necessity, which is a ground apart from non-payment of rent, has not been proved by the respondents. He, thus, contends that the impugned orders deserve to be set aside and the petition under Section 13 of the Rent Act dismissed.

3. On the other hand, counsel for the respondents submits that the suit preferred by the petitioners-tenants claiming themselves to be the owners of the property stands dismissed, appeal against which has also been dismissed by the Additional District Judge, Panchkula on 17.12.2012 and the Regular Second Appeal No. 316 of 2013 preferred by the petitioner has also been dismissed by this Court on 06.05.2015. He, thus, contends that the title of the property stands settled in favour of the respondents. His further

contention is that both the Courts below have returned a categoric finding that the respondents are the landlords of the property on the basis of the evidence, which has been led by the parties. His further contention is that the petitioners are in arrears of rent, which fact is not disputed, which are the findings recorded by the Courts below. He has referred to the order passed by the Appellate Authority at the time when the appeal was preferred by the petitioners-tenants granting stay of eviction subject to payment of rent, which order was challenged by the petitioners by filing Civil Revision No. 6177 of 2012 titled as Meenakshi Bakshi and another vs. Miyan Singh and others, which was dismissed on 16.10.2012 by this Court. Petitioners were, thus, mandated to pay the rent but they have not paid any rent and on this ground alone, the petition deserves to be dismissed. Counsel for the respondents has relied upon the judgments of this Court in the case of **Harbans Lal and others vs. Kishan Chand**, (2000) 126 PLR 295, to contend that there is no bar upon the jurisdiction of the Rent Controller to determine the question with regard to the relationship of landlord and tenant and for that purpose, it can go into the question of title as well. However, the said finding may not be binding upon the Civil Court. Reference has also been made to the judgment of this Court in **Dev Raj and others vs. Sodhan Devi and others**, 1975 R.C.R. (Rent) 93 in support of this contention. As regards the finding of the Courts below with regard to the personal necessity of the respondents is concerned, he contends that the assertion, which has been made in the petition which has been reiterated in the evidence brought on record, has not been challenged by the petitioners as there is no cross-examination on these aspects. He, thus, contends that the revision petition deserves dismissal.

4. I have considered the submissions made by the learned counsel for the parties and with their assistance, have gone through the impugned orders and the other documents brought on record.

5. As regards the assertion of the learned counsel for the petitioners that the petitioners are the owners of the property, suffice it to say that after the dismissal of RSA No. 316 of 2013 preferred by the petitioners vide order dated 06.05.2015, the question stands settled against the petitioners and in favour of the respondents. The question with regard to the respondents being the landlords has also been proved on the basis of the pleadings and the evidence, which has been, in detail, referred to, considered and decided by the Courts below. The relationship was primarily disputed on the basis of the fact that the petitioners were the owners of the property, which fact having been clinched against them leaves them to the status of the tenants in the property. The findings, thus, recorded by the Courts below are upheld.

6. With regard to the non-payment of rent, when a question was specifically put to the petitioners present in Court, they admitted that the rent has not been paid to the respondents since the year 2012 meaning thereby that the interim order, which was passed by the Appellate Authority and upheld by this Court, has not been complied with till date. The findings, thus, recorded by the Courts below with regard to the non-payment of rent/arrears of rent cannot be faulted with.

7. As regards the personal necessity of the respondents-landlords is concerned, it is in the pleadings that the respondents purchased the property for their personal need as respondent No. 1 retired from Government service on 31.01.2006 and his elder son respondent No. 2

wanted to settle with his family in this house. The younger son of petitioner No. 1 purchased House No. 850, Sector-4, Panchkula, where he, his wife and his elder son-petitioner No. 2 with his family were residing. With the passage of time, relations between the younger son and respondents No. 1 and 2 became strained and he wanted them to shift to the house, which has been purchased by them. His younger son was insisting upon vacation of the house so that he can stay in the said house by surrendering the accommodation provided to him by the Bank where he was working. The petitioners and other members of the family are socially well connected and a lot of relatives and friends visiting the house in Sector-4, Panchkula, which accommodation is not sufficient and, therefore, for their personal use, they wanted to shift to the demised premises. These averments have been reiterated in the Court and there is virtually no cross-examination of the respondents on this aspect. The said ground, therefore, has also been proved and the findings recorded by the Courts below cannot be faulted with.

8. In view of the above, there is no merit in the present petition and, therefore, the same stands dismissed especially when there are concurrent findings recorded by the Courts below, which are based upon proper appreciation of the pleadings and the evidence on record.

**C.M. No. 1072-CII of 2013**

In view of the dismissal of the main petition, no separate orders are required to be passed in this application for stay and, therefore, the same stands dismissed.

**September 22, 2015**

*pj*

**( AUGUSTINE GEORGE MASIH )  
JUDGE**