

CR No.339 of 2015

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

**CR No.339 of 2015
Date of decision:23.01.2015**

Prem Kumar

...Petitioner

Versus

Lala Bhola Nath Trust (Regd), Ferozepur and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Navdeep Chhabra, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner is the tenant who has been ordered to be evicted from the demised premises on the ground of subletting.

Counsel for the petitioner has argued that the eviction petition was not filed by all the members of the trust and Tilak Raj Jaiswal was not authorized to file the eviction petition as he was only authorized to collect the rent. It is submitted that against the order of eviction, he had earlier preferred CR No.5689 of 2012 which was withdrawn on 26.09.2012 with liberty to file review application as it was urged that both the aforesaid points were not addressed by the lower Appellate Court. The review application, however, has also been dismissed by the lower Appellate Court on 08.01.2015.

Counsel for the petitioner has referred to Section 48 of the

Indian Trusts Act, 1882 (here-in-after referred to as the “Act”) to contend that all the co-trustees should have filed the eviction petition and has relied upon a judgment of this Court in the case of **Mandir Jamuna Dass Jawaharlal S. Sanatam Dharam Mahabir Dal Trust v. Shankar Dass**, 2003(1) R.C.R. (Rent) 582. It is also submitted that Tilak Raj Jaiswal was only authorized to collect the rent as per resolution no.269 dated 19.03.1982 (Ex.A2) and could not have filed the eviction petition.

I have heard learned counsel for the petitioner and perused the available record.

Insofar as the first argument is concerned, Section 48 of the Act says that when there are more trustees than one, all must join in the execution of the trust, except where the instrument of trust otherwise provides. The judgment in **Mandir Jamuna Dass Jawaharlal S. Sanatam Dharam Mahabir Dal Trust's case (supra)** is not applicable to the facts and circumstances of the present case because in that case the resolution was passed in favour of Tirloki Nath to file the eviction application but the said resolution was passed by 8 members of the trust out of total 12 members, therefore, it was not found to be a proper authorization on behalf of all the 12 trustees. However, in the present case, no such argument has been raised that the resolution no.269 dated 19.03.1982 was not passed by all the co-trustees in order to apply Section 48 of the Act which provides that co-trustees cannot act singly.

As regards the second argument that Tilak Raj Jaiswal was only authorized to collect the rent, the learned Courts below have extensively

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referred to the definition of the landlord provided in Section 2(c) of the East Punjab Urban Rent Restriction Act, 1949 which provides that any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf or for the benefit of any other person, or as a trustee, guardian, receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter authorized and every person from time to time deriving title under a landlord.

Since Tilak Raj Jaiswal was authorized to receive the rent on behalf of the trust, therefore, he was the landlord for the present petitioner and was definitely having a right to file the eviction petition.

No other point has been raised.

In view of the aforesaid discussion, I do not find any merit in the present revision petition and hence, the same is hereby dismissed.

January 23, 2015
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(Rakesh Kumar Jain)
Judge