

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

**CR No.4921 of 2014 (O&M)
Date of decision : March 09, 2015**

Lachhman Sarup and others

..... Petitioners

Versus

Anil Kumar

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

Present : Mr. Ram Bilas Gupta, Advocate,
for the petitioners.

GURMIT RAM, J.

1. This revision petition under Article 227 of the Constitution of India has been filed by the petitioners-Lachhman Sarup and other for setting aside impugned order dated 05.05.2014 (Annexure P-11) passed by learned Civil Judge (Junior Division), Faridabad vide which the application filed by the petitioners under Section 340 Cr.P.C. and for proper verification of the address of the respondent has been dismissed. This order is stated to be erroneous suffering from various material irregularity and illegalities and hence not sustainable in the eyes of law.

2. The brief background which necessitated for filing of the

instant application under Section 340 Cr.P.C. is that Anil Kumar-respondent herein filed an application (Annexure P-2) under Section 6 of Haryana Urban (Control of Rent & Eviction) Act, 1973 (in short “the Act”) for depositing of rent. In this application, he took the plea that he is tenant in the demised premises whereas respondents are the landlord and that he is ready to pay the arrears of rent at the rate of ₹600/- per month of certain period. Respondents-Harish Chand and others (who are petitioners in this revision petition) filed reply to this application taking preliminary objections regarding its maintainability and concealment of material facts on the part of applicant-Anil Kumar. Plea was also taken that property in question was mortgaged vide mortgage deed dated 07.02.1986. It was denied that applicant is the tenant and that respondents are the landlord of the demised premises. Then it was also contended that matter in this regard is subjudice before the Hon'ble High Court of Punjab and Haryana at Chandigarh.

3. After contest by both the parties, this application was allowed by the Court of learned Rent Controller, Faridabad vide order dated 07.08.2010 (Annexure P-4). Then the respondents filed an appeal against this order before the learned Appellate Authority, Faridabad which was dismissed vide judgment dated 12.10.2011 (Annexure P-5). Then even a civil revision was also filed in this regard before this Court which was also dismissed and disposed of vide order dated 06.02.2013 (Annexure P-6).

4. The main plea of the applicants-Harish Chand and others in the application under Section 340 Cr.P.C. was that Anil Kumar, who was the

applicant in the application under Section 6-A of the Act has concealed the material facts from the Court in that application. It was also mentioned that he was aware of the litigation already pending between the parties before this Court, but he did not disclose this fact in the said application intentionally. Then plea was again taken that said Anil Kumar is not a tenant in the demised premises, rather he is mortgagee qua these premises under the respondents-Harish Chand and others.

5. In reply to this application, Anil Kumar took preliminary objection that this application is not maintainable. He has denied that he is a mortgagee qua demised premises under Harish Chander and others. Rather he had reiterated his stand that he is tenant qua demised premises.

6. The learned trial Court after hearing learned counsel for both the parties and going through the record as well declined the abovesaid application under Section 340 Cr.P.C. filed by the present petitioners-Lachhman Sarup and others vide impugned order dated 05.05.2014 (Annexure P-11).

7. Being aggrieved against the impugned order, the applicants-Harish Chand and others have come up in the instant revision petition.

8. Learned counsel for the petitioners heard and record was also perused with his able assistance.

9. It is admitted fact that matter with regard to the fact as to whether Anil Kumar is tenant qua demised premises or that he is mortgagee qua same is pending before this Court in RSA bearing No.3976 of 2002. Anil Kumar-respondent herein has been denying from the very beginning

that he is mortgagee qua the demised premises. Rather it is his specific stand that he is a tenant qua demised premises and that there exists relationship of landlord and tenant between the parties. When the matter with regard to status of Anil Kumar abovesaid qua the demised premises is subjudice before this Court, then present revision-petitioners are nobody to thrust upon him the status of mortgagee qua the demised premises. There is nothing wrong if he has filed an application under Section 6-A of the Act for depositing of arrears of rent on the plea that he is the tenant qua the demised premises. Moreover this application after hot contest by both the parties as abovesaid was accepted by the learned Rent Controller, Faridabad vide order (Annexure P-4) dated 07.08.2010 and the same was affirmed in appeal by the learned Appellate Authority, Faridabad vide order (Annexure P-5) dated 12.10.2011. Even revision petition filed in this regard before this Court was also dismissed vide order (Annexure P-6) dated 06.02.2013.

10. In the light of the above discussion, there is nothing wrong in the impugned order, hence same is upheld. This revision petition being meritless stands dismissed and disposed of accordingly.

11. Since the main revision has been dismissed, hence pending civil miscellaneous, if any, also stands disposed of having been rendered infructuous.

March 09, 2015

Gaurav Sorot

**(GURMIT RAM)
JUDGE**