

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

235

CR-58-2014
DATE OF DECISION: 30.10.2015

TILAK BAHADUR

.....Petitioner

VERSUS

MADAN GOPAL AND ORS

....Respondents

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

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Pawan Kumar, Sr. Advocate
with Mr. Abhimanyu Batra, Advocate
for the appellant.

Mr. K.B. Raheja, Advocate
for the respondents.

AUGUSTINE GEORGE MASIH , J. (ORAL)

1) Challenge in this revision petition is to the order dated 03.12.2013 (Annexure P5) passed by the Rent Controller, Malerkotla, vide which an application under Order 1 Rule 10 CPC for impleading the petitioner-Tilak Bahadur as party to the eviction petition stands dismissed.

2) It is the contention of the learned senior counsel appearing for the petitioner that even if the petitioner is not a necessary party but he would be a proper party and no prejudice will be caused to the respondents in case the present application is allowed. In support of this contention, he places reliance upon the

judgment of the Bombay High Court in Jivatsingh Dhansinghani Vs. Padma Hemandas 2004 (1) RCR (Rent) 629 and also the judgment of the Supreme Court in Kasturi Vs. Iyyamperumal & Others 2005 (2) RCR (Civil) 691. He thus contends that the impugned order cannot sustain.

3) On the other hand learned counsel for the respondents states that as per the application of the petitioner which has been filed for impleadment, he himself is admitting that he has vacated the portion which was in his possession in the year 2009 and shifted to the other portion of the house which is in possession of Padam Singh who is respondent in the ejectment petition. It has further been stated therein that the petitioner had gone to Nepal and he has only returned there on 28.04.2012 after the period of 7-8 months. He thus, contends that no evidence has been brought on record which would indicate that he was in possession of the premises in question. That apart, he contends that no tenancy agreement has been brought on record nor has it been stated as to how, when and to whom the rent was paid. A contention has also been raised that notice dated 26.2.1994 issued by the Municipal Council, Malerkotla (Annexure P6) where Tilak Bahadur-petitioner has been shown as a tenant, has been rectified. He thus contends that the impugned order is in accordance with law and do not call for any interference and in support of this contention he placed reliance upon the judgment of this Court in Vijay Singh Vs. Dharam Pal and Others 1989 (1) RCR (Rent) 704 and Civil Revision No.4900 of 2006 titled as Nazma Vs. Sunil Kumar and Others decided on 15.9.2006. Reliance has

also been placed upon the judgment of Supreme Court in Mumbai International Airport Private Limited Vs. Regency Convention Centre and Hotels Private Limited and others 2010 AIR (SC) 3109.

4) I have considered the submissions made by the counsel for the parties and have gone through the record of the case.

5) Perusal of the application moved under Order 1 Rule 10 CPC for impleading the petitioner as a party shows that it is an admitted position that he had vacated the premises which was initially in his possession in the year 2009. Although an assertion has been made that he has moved to the western portion of the premises but no evidence has been brought on record which would suggest such a thing to have happened. Apart from that, except for the notice dated 26.02.1994 (Annexure P6) issued by the Municipal Council, Malerkotla indicating him to be a tenant in the premises which factum is also disputed by the counsel for the respondents. There is nothing on the record indicating that the petitioner is residing in the demised premises which is being sought to be vacated. The observations thus of the Rent Controller in the order dated 03.12.2013 (Annexure P5) cannot be faulted with.

6) As regards the assertion of the learned senior counsel that the petitioner would be if not a necessary party who would proper party to the lis, suffice it to say, that the respondent No.1- landlord is the master of this litigation and it is for him to choose as who should be the party to the lis. It may be added here that no prejudice would be caused to the petitioner in case he is in the

possession of the premises and can agitate his claim, if any, in accordance with law, if so advised.

7) Finding no merit in the present petition, the same stands dismissed.

8) It is made clear that any observations made in this order would not affect the rights of the parties in any manner.

October 30, 2015
SwarnjitS

(AUGUSTINE GEORGE MASIH)
JUDGE