

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CR No.7455 of 2014(O&M)

Date of Decision:-02.02.2015

M/s Electronics Enterprises & Anr.

.....Petitioners.

Versus

Mrs. Anupama Bhardwaj.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. C.B. Goel, Advocate for the Petitioners.

JASWANT SINGH, J.(ORAL)

Tenant is in revision aggrieved against the order dated 13.10.2014 passed by the learned Rent Controller, Chandigarh whereby his application under Order 7 Rule 11 CPC for dismissing the ejectment application filed by the respondent(landlord) has been dismissed.

Learned Counsel for the petitioner has vehemently argued that the learned trial Court has not gone into the factual aspect of the matter because it is apparent from the record that the ejectment application preferred by the respondent(landlord) is not at all maintainable because the respondent namely Mrs. Anupama Bhardwaj claims herself to be a co-owner on the basis of a registered deed dated 12.09.2012 allegedly executed by a partnership firm namely Grover Associates through its partner, who transferred 75% of share in favour of the respondent-alleged landlord. This as per the learned Counsel for the petitioner is a sham transaction only to

eject tenant on the false plea of personal necessity. In the alternative learned Counsel for the petitioner has also argued that in case this Court does not agree with the argument raised by him then a preliminary issue regarding maintainability be framed and evidence be led on this aspect.

After hearing learned Counsel for the petitioner and perusing the paper book this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

The argument that has been raised by learned Counsel for the petitioner is based upon evidence which is yet to be led by the parties. Furthermore, it is settled position of law that a tenant cannot challenge the title of a landlord because he is a complete stranger to any transaction that takes place amongst the landlord and its previous owner. Furthermore, the averments that are being raised have to be substantiated by way of evidence of the petitioner and at this stage eviction application cannot be thrown out straightway. Thus, this Court does not find any infirmity in the order passed by the learned Rent Controller.

As far as the alternative plea raised by learned Counsel for the petitioner is concerned, this Court is of the opinion that the said plea cannot be accepted simply for the reason that the parties would have to lead evidence in its entirety and by treating any issue as a preliminary issue especially the issue which is a bone of contention in the present case, the parties would unnecessarily be harassed if in case the Court finds that the petition is maintainable. The purpose of deciding the ejectment petition would itself be defeated if the evidence is led after deciding the preliminary issue.

In view of the above, finding no merit in the present revision

petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

February 02, 2015
Vinay