

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 7817 of 2013 (O&M)
Date of Decision: 24.07.2015.

Prem Lata Kainth

.....Petitioner

Versus

Navraj Dheer

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. N.C.Kinra, Advocate
for the petitioner.

Mr. Manoj Kaushik, Advocate
for the respondent.

SABINA, J.

Petitioner has filed this petition challenging the order dated 16.10.2013 whereby the application moved by the respondent-tenant under Order 1 Rule 10 of the Code of Civil Procedure, 1908 ('CPC' for short), for impleading Satyapal Kainth as a respondent, was allowed.

Learned counsel for the petitioner has submitted that petitioner is the owner of the premises in question. Petitioner had executed a general power of attorney in favour of her brother-in-law Satyapal Kainth with regard to the house in question. However, the attorney of the petitioner, without her consent, rented out the premises in question to the respondent. Now the petitioner had cancelled the attorney executed by her in favour of Satyapal Kainth. The attorney of the petitioner cannot be said to be a

necessary party for deciding the *lis* between the parties. Respondent can examine the attorney as a witness, if so advised.

Learned counsel for the respondent, on the other hand, has opposed the petition and has submitted that in fact, he had been inducted as a tenant by the attorney of the petitioner and had been regularly paying rent to the said attorney. The attorney of the petitioner was a necessary party.

Petitioner has filed the petition under Section 13 of Haryana Urban (Control of Rent and Eviction) Act, 1973 seeking ejectment of the respondent. During the pendency of the ejectment petition, respondent moved an application for impleading the attorney of the petitioner as a party. Admittedly, petitioner had executed a general power of attorney in favour of Satyapal Kainth qua the premises in question. The case of the petitioner is that she had not authorized her attorney to rent out the premises in question to the respondent whereas the case of the respondent is that he had been given the premises on rent by the attorney of the petitioner and he had been regularly paying rent to the attorney of the petitioner. Now the petitioner has cancelled the general power of attorney executed by her in favour of Satyapal Kainth. The attorney of the petitioner cannot be said to be a proper or necessary party to the ejectment petition filed by the petitioner against the respondent. However, in case the respondent wants to establish the factum of payment of rent to the attorney of the petitioner, he can examine the petitioner as a witness, if so advised but the attorney of the petitioner is not liable to be impleaded as a party to the ejectment petition filed by the petitioner against the respondent. The learned Rent Controller fell in error while allowing

the application moved by the respondent under Order 1 Rule 10 CPC for impleading the attorney of the petitioner as a respondent.

Accordingly, this petition is allowed. Impugned order dated 16.10.2013 is set aside.

**(SABINA)
JUDGE**

July 24, 2015
Gurpreet