

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.8610 of 2014
Date of Decision.04.03.2015

Renu Nagpal

.....Petitioner

Versus

Sham Lal and others

.....Respondents

Present: Mr. Ajaivir Singh, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

-. -

K. KANNAN J. (ORAL)

1. The petition for impleadment sought at the instance of a daughter in respect of a non-residential building in a rent petition is a subject of revision before this Court. The landlord who had originally let the property to the tenant namely the petitioner's father has died and legal representatives of the landlord have filed a case against the brothers of the petitioner who are the sons of the original tenant. The original tenant has also expired. The application is filed by the daughter on the plea that as per the definition of Section 2(h) of the Haryana Urban (Control of Rent and Eviction) Act, 1973, she is also the legal heir and she is entitled to be impleaded as party. It appears that there is also a suit for specific performance instituted at the instance of the sons who have claimed a right of purchase of the property from the legal heirs of the original landlord. According to the petitioner, her own brothers have taken a different stand claiming exclusive right to the property. Though she was married before the father's death on 2.12.1998, she could not live with her husband for

long due to matrimonial dispute and she has returned to the father's house.

2. It is an admitted case that the shop is being put to use for some business of the brothers. The contention is that since the law recognizes a legal heir set out under the schedule to be also the tenant, she is also bound to be impleaded as party and her own absence will cause very serious prejudice.

3. The petition which is filed for eviction will bind the parties against whom eviction is sought. The landlord is entitled to choose the persons against whom the action is to be prosecuted and any person who is not party need not take notice of the same. The landlord shall be the *dominus litus* and if an action for eviction is sought against the persons who are in possession or whose possession is material, it cannot be left to any other person to claim that he or she must also be impleaded. The petitioner will be competent to make such obstruction if she is otherwise entitled to make such obstruction in the event of order of eviction. Again the issue of whether the tenancy itself could continue with the tenants taking an agreement of purchase from the landlord and the outcome of any such litigation in their favour how it may impact any right of a legal heir of erstwhile tenant are not matters which can be brought now at this stage in the rent control proceedings. It will mean unnecessary complication in the conduct of the litigation.

4. The civil revision petition is misconceived and I will find nothing erroneous in the order passed by the lower Court for intervention. The revision petition is dismissed.

(K. KANNAN)
JUDGE

March 04, 2015
Pankaj*