

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

C.R. No.5911 of 2003

Date of Decision.24.03.2015

Chhajju Singh and another

.....Petitioners

Versus

Nikka Singh

.....Respondent

Present: Mr. O.P. Goyal, Senior Advocate with
Mr. Randeep Singh, Advocate
for the petitioners.

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 revision petition is at the instance of the landlord who sought for eviction on the ground of non-payment of rent and for another ground that the demised premises which is a godown has become unfit and unsafe for human habitation. The petition was founded on a plea that the 1st petitioner Chajju Singh was the owner of the property through a Trust created for a particular purpose and the rent was being received by the 2nd petitioner who was the power of attorney as well his son. The respondent admitted, while traversing the contentions relating to the jural relationship between the petitioners and the respondent-tenant, in para 2 that the 2nd petitioner had been controlling and managing the properties of the 1st petitioner including the property in dispute. He had specifically stated “petitioner No.2 is also a landlord qua property in dispute.” In para 3 of the written statement also, it was contended that the 2nd petitioner has been

realizing rent from the respondent on behalf of the petitioner No.1 and that the petitioner No.2 has been issuing receipt to the respondent.

2. The Rent Controller found the plea of the petitioner as having been established and granted the relief of ejectment. In appeal by the tenant, the Appellate Court affirmed the finding of the landlord regarding the quality of the building but went on to hold that the petitioners were not competent to maintain the petition. The Appellate Court held that the property belonging to a Trust and all the trustees must have been made parties.

3. I would find the whole approach of the Appellate Court as erroneous. The ownership is never to be a point of issue for rent control proceedings unless we encounter a situation of whether a denial of tenancy was bona fide which some of the State legislations provide as ground for eviction if it is not bona fide. If the 1st petitioner is referred to as person who is an owner to carry out certain charities and 2nd petitioner is constituted as power of attorney to receive the rent and the tenant also admits the jural relationship in the manner that I have extracted from the reply of the respondent, nothing is available for Court to adjudicate on the maintainability of the petition on the ground that other trustees have not been impleaded as parties. This is not a suit for enforcement of the trust or securing any of the reliefs in an inter se dispute between trustees. It is simply an action for ejectment filed by a person claiming as a landlord and when it is admitted by the respondent that the 2nd petitioner who was receiving the rent and who was also issuing the receipts had himself the status as landlord, the Court could not have posed the issue of whether the trustees were

necessary parties. The reasoning of the Appellate Court for allowing the appeal and dismissing the petition for ejectment was clearly erroneous and liable to be set aside.

4. The order passed by the Appellate Court is set aside and the order of eviction ordered by the trial Court on the findings recorded that the building was in an unfit and unsafe inhabitable state is restored. The civil revision is allowed and the petitioner will be entitled to secure possession of property in accordance with law in execution.

(K. KANNAN)
JUDGE

March 24, 2015
Pankaj*