

**308 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-2521-1987 (O&M)

Date of decision : 29.03.2016

Paramjit Singh Walia

..... Petitioner

versus

Jagdish Mittar and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Santosh Sharma, Advocate
for the petitioner.

Mr. Vivek Sehgal, Advocate
for the respondents.

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?

AJAY TEWARI, J. (Oral)

This revision has been filed against the concurrent orders of the Courts below ordering the eviction of the petitioner from the premises in dispute.

The respondents had filed the petition for eviction on the ground of personal necessity. The Rent Controller allowed the petition and the petitioner filed an appeal. In the appeal the petitioner did not challenge the finding of bonafide necessity but only took up the plea that the respondent was himself a tenant and had sublet the premises to him without the written consent of the real owner and therefore there was no relationship of landlord and tenant between the parties. At one stage the matter was

referred to a Larger Bench for an authoritative pronouncement on the issue whether a tenant who sublets any premises without the written consent can claim himself to be a landlord of the sub-tenant.

The Hon'ble Division Bench in the matter of **Paramjit Singh Walia Vs. Jagdish Mittar etc.** upheld the decision in *Kashmiri Lal and another Vs. Madan Lal, 1979 PLR 738* and also approved the decision in *Pishori Lal Vs. Joginder Singh, 1992 (2) RCR 506* by order and judgment dated 19.09.2015 and held as follows :-

“10. The reference is, therefore, answered as follows:-

(i) A tenant who sublets any building or rented land without the written consent of the landlord is not a landlord within the meaning of that term in Section 2(c);

(ii) The words in Section 2(c) “in the manner hereinafter provided” refer to a tenant, who sublets a building or rented land with the written consent of the landlord;

(iii) Where a tenant sublets any building or rented land without the written consent of the landlord, the person to whom he sublets the building or rented land does not fall within the meaning of the term “tenant” in Section 2(h);

(iv) Accordingly, where a tenant, who sublets any building or rented land without the written consent of the landlord, cannot maintain an action for eviction under Section 13.

The office shall place the matter before the learned single Judge as per roster for disposal thereof on merits.”

The rent deed (Annexure A-I) confers the right on the respondent to sublet the premises. The precise argument raised by learned counsel for the petitioner is that despite this general permission it would be incumbent upon any such tenant to take the specific consent of the owner in every case of sublease.

In my considered opinion the Division Bench lays down no such law. The phrase used by the Division Bench is 'written consent'.

As mentioned above, in the lease deed executed between the respondent and the original owner there was specific consent to the respondent to induct any sub-tenant. No other point has been raised.

Learned counsel for the petitioner has sought to argue on the merits of the order. However the learned counsel for the respondents has pointed out that before the Appellate Authority the petitioner had restricted his argument only to the right of the respondents to sublease the premises and no argument was raised on the merits of the case and in the circumstances the petitioner can not be permitted to now raise any argument on the merits of the case. I find merit in this contention.

Consequently I hold that the petitioner is not entitled to raise any arguments on the merits of the case. Petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 29, 2016
Pooja sharma-I

(AJAY TEWARI)
JUDGE