

105-A

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

C.R. No.1109 of 2016 (O&M)

Date of Decision : 04.03.2016

Devinder Singh Qaumi

..... Petitioner

Versus

Brigadier Kulwant Singh Nijjar and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. M.S. Sachdev, Advocate
for the petitioner.

Mr. R.S. Athwal, Advocate
for the respondent No.1.

Mr. Arun K. Bakshi, Advocate
for the respondent No.2.

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 order dated 11.12.2015 declining to implead the petitioner as a party.

The case of the petitioner is that he alongwith his deceased brother had jointly taken the house on rent though they were living separately in the same but when the respondents filed a petition for eviction he was not impleaded. The trial Court has declined his application and hence he is before this Court.

The contention of the learned counsel for the petitioner is that the Rent Controller could not have decided this issue without considering the evidence of both the parties on this ground and this order has caused great prejudice to him.

Learned counsel for the respondents-landlord on the other hand state that this is a ploy to further delay the proceedings where a serving army officer is seeking to get his house vacated and actually the petitioner was never a tenant and the house had been given only to the brother of the petitioner.

To support his argument, learned counsel for the petitioner has relied upon the judgment in the matter of ***Om Parkash vs. Ram Kumar and others, reported as 2011(4) R.C.R. (Civil) 455***, wherein this Court distinguished between two sorts of cases. One where an applicant (like the present petitioner) was in occupation and the second where the applicant was not in occupation and held that where an applicant was in possession/occupation and claimed to be a tenant, he should have been impleaded as a party.

Learned counsel for the respondents-landlord have relied upon the judgment of this Court in the matter of ***Reema Rani vs. Gurmukh Singh and another, reported as 2004(2) R.C.R.(Rent) 619***, wherein it was held that the sub-tenant need not be impleaded as a party. They have further relied upon the judgment of this Court in the matter of ***Charanjeet Bhardwaj vs. Prem Nath and another, reported as 1979(1) R.C.R(Rent) 182***, wherein it was held that a person who claimed title in himself could not become a party in the ejectment petition. In my opinion, the judgments

relied upon by the learned counsel for the respondents could not advance the case of the respondents. Learned counsel for the respondents have further argued that the instant application had been filed two years after the ejectment petition was filed and at a stage where the landlord had led his entire evidence.

Learned counsel for the petitioner states that he would have no objection if a time cap is put on trial.

Consequently, all the learned counsel undertakes to lead their entire evidence in three effective opportunities and the only assistance they would seek from the Rent Controller is dasti summons. Allowed as prayed for. Learned counsel for the respondent No.1 further undertakes to file amended memo of parties within two days. Learned counsel for the petitioner also undertakes to file reply on the next date of hearing.

In the entirety of circumstances, the Rent Controller is requested to conclude the trial expeditiously and in any case within a period of 6 months from the next date of hearing.

In the circumstances, the petition stands disposed of in the above terms.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

A copy of this order be given to the learned counsel for the parties under the signatures of the Bench Secretary.

March 04, 2016
ashish

(AJAY TEWARI)
JUDGE