

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

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Civil Revision No.1818 of 2016
Date of Decision: October 24, 2016

Naresh Bala and another

...Petitioners

Versus

Ram Niwas and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Abhinav Sood, Advocate
for Mr. Vikram Singh, Advocate
for the petitioners.

AUGUSTINE GEORGE MASI, J. (ORAL)

In the present revision petition, challenge is to the order dated 08.02.2016 passed by the Rent Controller, Safidon, whereby an application preferred by the petitioners through the special power of attorney holder for impleading them as a party to the eviction petition, has been dismissed.

2. It is the contention of learned counsel for the petitioners that the original owner of the property was Bilayati Ram, who was the father of the applicants and had obtained Booth No.36, Sabzi Mandi, Safidon, by an allotment order dated 31.03.1976 from HSAMB and after the death of Bilayati Ram in the year 1994, the applicants are the only legal heirs, who have inherited the demised shop. It has been asserted that respondent No.1 is not the owner of the booth and thus has no right to file an eviction petition against respondent No.2. He contends that the petitioners being interested parties and the legal heirs of the original owner Bilayati Ram, should have been impleaded as a party-respondent.

3. This contention, on consideration, cannot be accepted in the light of the fact that a reply has been filed by respondent No.1-Ram Niwas,

who had stated that a suit for permanent injunction was preferred by the petitioners against him restraining him from seeking and taking rent from respondent No.2, which suit has been withdrawn by the petitioners without seeking any permission to file a fresh suit or availing any other remedy. That apart, it has been contended that Bilayati Ram, the original owner, had sold the demised premises to Rash Bihari, who has further sold the demised premises to respondent No.1-Ram Niwas and, therefore, he has a right to file the ejectment petition. The learned Rent Controller has rightly asserted that the main *lis* and the dispute between the parties primarily appears to be with regard to the title, for which the proper remedy would be a civil suit and the Rent Controller can only decide such a *lis* if it is ancillary and not the main issue. This is a settled preposition of law and, therefore, the order, as has been passed holding that the petitioners are not necessary or proper parties to the eviction petition, cannot be faulted with.

4. The order, being in accordance with law, is upheld.
5. The revision petition stands dismissed.

October 24, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No