

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

**Civil Revision No.3681 of 2016 (O&M)
Date of Decision: July 13, 2016.**

Sonia Bhargav

.....PETITIONER(s).

VERSUS

Surinder Kaur and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Anil Chawla, Advocate
for the petitioner (s).

SURINDER GUPTA, J.

Surinder Kaur, respondent No.1 filed petition under Section 13 of East Punjab Urban Rent Restriction Act, seeking ejectment of respondent No.2-Parkash Kaur from the premises bearing Kothi No.404, Green Avenue, Amritsar on the ground of non-payment of rent. Petitioner Sonia Bhargav, daughter of Parkash Kaur filed application under Order 1 Rule 10 CPC, alleging that Kothi in question was owned by Kamaljeet Singh, her father who died leaving behind Parkash Kaur his wife, Sonia Bhargav and Simone Singh Sidhu daughters. She challenged the legality and validity of the sale deed dated 07.02.2011 executed in favour of Surinder Kaur, alleging that husband of respondent No.1 namely Hari Singh got executed sale deed of the disputed property in the name of respondent No.1 with mala fide intention and also got mutation sanctioned. Petitioner alleged that the ejectment application was filed by Surinder Kaur in connivance with

Parkash Kaur, her mother as Hari Singh or Surinder Kaur never came in possession of the suit property. Applicants i.e. Sonia Bhargav and Simone Singh were living in the disputed house and they were deliberately not impleaded as respondents in the ejectment application filed by respondent No.1.

The application of applicants was contested by respondent No.1 Surinder Kaur in her reply and learned Rent Controller dismissed the application with the observations as follows:-

“Perusal of the file reveals that the present ejectment petition has been filed by Surinder Kaur wife of Hari Singh against Parkash Kaur. It has been specific case of the applicant that Parkash Kaur was inducted as tenant and now the children of Parkash Kaur have come present and moved the present application for impleading them as necessary parties. In reply to said application, the applicant Surinder Kaur has taken the plea that they are not the necessary parties. In the present case, onus is upon the applicant to prove the relationship of landlord and tenant between the applicant and respondent. Once, the applicant asserts that respondent is her sole tenant. As such, no ground is made out to allow the present application. Hence, the application stands dismissed.”

Learned counsel for the petitioner has argued that the suit property was owned by father of the petitioner and Parkash Kaur, mother of petitioner sold the same to respondent No.1 vide sale deed dated 07.02.2011 without knowledge and intimation to the petitioner and her sister Simone Singh. Respondent No.1 at the behest of her husband Hari Singh plotted to take possession of the disputed property by filing ejectment application against Parkash Kaur, who is also conniving with respondent No.1 by not contesting the ejectment application. The petitioner is in possession of the

suit property and has every right to protect the same.

Admittedly, civil suit No.347/16212/12/13 was filed by Simone Singh on 14.09.2012 challenging the sale deed executed by Parkash Kaur and claiming that the suit property is jointly owned by her along with petitioner and Parkash Kaur to the extent of 1/3rd share each and that civil suit is still pending. In case, that suit succeeds, the sale deed dated 07.02.2011 executed by Parkash Kaur will be ineffective qua the rights of petitioner and her sister Simone Singh.

In the present rent application, the plea raised in the civil suit cannot be raised before the Rent Controller by the petitioner and Rent Controller lacks jurisdiction to record any finding regarding title of the parties to the suit. As such, the Rent Controller vide impugned order has committed no error of law or fact while dismissing the application filed by the petitioner. The applicant, being not party to ejectment petition, shall not be bound by any order passed therein. Any order passed by learned Rent Controller, in no manner, will defeat right of petitioner or any stake-holder in the suit property from raising any objection at the stage of its execution.

This revision petition has no merits.

Dismissed.

July 13, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE