

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

**Civil Revision No.4935 of 2016 (O&M)
Date of Decision: August 04, 2016**

Jaimal Singh

.....PETITIONER.

VERSUS

Ashok Kumar

.....RESPONDENT.

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Akhilesh Vyas, Advocate
for the petitioner.

SURINDER GUPTA, J.(Oral)

1. Heard.
2. Learned counsel for the petitioner submits that vide order dated 4th July, 2016, application of petitioner seeking amendment of petition was allowed and he was permitted to take the plea that during pendency of the petition, respondent-Ashok Kumar has subletted the demised premises to Ram Kumar s/o Ram Gopal. The other application filed by the revision-petitioner to implead Ram Kumar s/o Ram Gopal as party-respondent No.2 was, however, dismissed. In the absence of Ram Kumar being impleaded as respondent, it will not be possible for the petitioner to prove his plea of subletting as Ram Kumar will have no right to put forth his defence, regarding the plea raised by the petitioner.

3. I have given thoughtful consideration to the arguments of learned counsel for the petitioner.

4. Perusal of the order dated 4th July, 2016 passed on the application under Order 6 Rule 17 read with Section 151 CPC shows that plea of the petitioner that respondent-tenant has sublet the demised premises to Ram Kumar s/o Ram Gopal was allowed with the observations, as follows;

“In the case at hand also trial has yet to be commenced and the application at hand has been filed. More so the contentions of the applicant to prove the ground of sub letting would be a matter of trial and the respondent would be given adequate opportunities to oppose the said ground too during the trial of the case and no prejudice is going to be caused if the application at hand is allowed. In my view both the parties would have adequate opportunities to controvert each other's plea. Accordingly, in view of my above discussion, the application at hand is hereby allowed.”

5. However, on the same date i.e. 4th July, 2016, learned Rent Controller, vide impugned order, dismissed the application to implead Ram Kumar s/o Ram Gopal as party-respondent No.2, with the observations that impleading him as party is not required, as the decision of this case would be binding on the sub-tenant.

6. The above observations of learned Rent Controller is perverse and not in accordance with law. Ram Kumar, who is alleged to

be a sub-tenant, will have the right to plead and put forth his claim before the Rent Controller and also to lead evidence in support of his plea. Any order passed against him in his absence, in the ejectment petition, will not be binding on him.

7. In view of the above discussion, Ram Kumar s/o Ram Gopal is a necessary party for the just decision of the case. Consequently, this petition has merits and is allowed, without notice to the respondent. However, if the respondent has any grievance against this order, he may file an application before the Registry, which on filing will be listed for hearing.

August 04, 2016.
deepak/jv.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No