

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

119

Civil Revision No.6203 of 2016
Date of Decision: September 21, 2016

Devinder Kumar (Deceased) through his LRs

.....Petitioners

Versus

Som Nath

....Respondent

CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjay Jain, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 30.08.2016 passed by the Rent Controller, Ambala, whereby an application under Section 10 of the Code of Civil Procedure for staying the proceedings of the rent petition under Section 13 which had been preferred by the respondent-landlord, has been dismissed.

2. It is the contention of learned counsel for the petitioner that in an earlier rent petition which has been preferred by the respondent, the dispute primarily was with regard to non-payment of rent in which rate of rent was one of the issues. The said petition is pending before the Rent Controller after it has been remanded by the Appellate Authority, however in a revision petition preferred by the petitioner i.e. Civil Revision No.4310 of 2016, proceedings have been stayed by this Court. His further contention is that in the present eviction petition which has been filed by the respondent, one of the issues is the non-payment of rent and the quantum of rent as in this petition, enhanced rent has been claimed by the respondent-landlord on the pretext of yearly increase of rent. He, thus, contends that the parties being same and one of the issues being

also the same, the proceedings in the present petition cannot go on and have to be stayed as per Section 10 of the Code of Civil Procedure.

3. I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the impugned order.

4. The contention of the counsel for the petitioner to the extent that one of the issues with regard to the non-payment of rent and quantum of rent may be common between the parties in the earlier litigation which is pending, however, the ground for the requirement of the respondent of the premises for personal necessity is a fresh ground and always is open in the subsequent proceedings, especially in the present fact when the landlady, who was the original rent petitioner, had expired during the pendency of the petition and the respondent herein is now the legal representative of the said landlady. It is now that the new ground has been taken which is always available depending upon the facts and circumstances of the case. The intention of the petitioner primarily appears to be delay the proceedings in the present rent petition which is pending before the Rent Controller. The judgments on which reliance has been placed by the Rent Controller in its order dated 30.08.2016 are applicable to the case in hand and, therefore, the order cannot be said to be suffering from any illegality which would call for interference by this Court.

5. In view of the above, finding no merit in the present revision petition, the same stands dismissed.

September 21, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No