

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of decision : 11.01.2016

1.

CR-7982-2015

Aerens Goldsouk International Limited

... Petitioner

Versus

Usha Gupta and others

... Respondents
2.

CR-7997-2015

Aerens Goldsouk International Limited

... Petitioner

Versus

Usha Gupta and others

... Respondents
3.

CR-7998-2015

Aerens Goldsouk International Limited

... Petitioner

Versus

Usha Gupta and others

... Respondents
4.

CR-7999-2015

Aerens Goldsouk International Limited

... Petitioner

Versus

Usha Gupta and others

... Respondents

5.

CR-8000-2015

Aerens Goldsouk International Limited

... Petitioner

Versus

Usha Gupta and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Sourabh Goel, Advocate
for the petitioner.

REKHA MITTAL. J.

The instant order shall dispose of the aforesaid petitions involving common questions of law and facts. However, for the sake of convenience, facts are taken from CR-7982-2015.

Usha Gupta and others filed a suit against respondent No.3 / defendant No.1 and the petitioner / defendant No.2 for possession, arrears of rent, interest on arrears and mesne profits.

The petitioner filed an application under Order 1 Rule 10 and Sections 151 and 152 of the Code of Civil Procedure (in short 'CPC') for deletion of its name from the array of parties on the premise that Sh.M.L.Gupta, respondent No.2/ plaintiff No.2 has admitted in his cross-examination that there was / is no relationship of landlord and tenant between the plaintiffs and defendant No.2 and thus the petitioner is not in any way liable to pay rent to respondents No.1 & 2. The plaintiffs / respondents No.1 & 2 have not proved existence of relationship of landlord and tenant between the petitioner and the plaintiffs, therefore, the

petitioner is neither a necessary nor a proper party and has been unnecessarily dragged in the litigation. It is prayed that name of the petitioner be deleted from the array of parties as defendant No.2.

Learned counsel for the petitioner, in line with the averments raised in the application has sought to assail the correctness and legality of the impugned order. It is vehemently argued that in view of the facts elicited during cross-examination of Sh. M.L. Gupta, one of the plaintiffs in the suit and failure of the plaintiffs to lead any tangible evidence to prove that the petitioner was inducted as a tenant in the suit property, its name is liable to be deleted.

I have heard counsel for the petitioner and perused the records.

It is an admitted position of the case that the plaintiffs have already adduced their evidence and the case is now fixed for final arguments. The learned trial Court in para 5 of the impugned order has noted that evidentiary value of the statements made by witnesses examined by the petitioner has to be appreciated at the time of final arguments and not at this stage. There is no denial of the fact which is otherwise a matter of record that defence of the present petitioner was struck off by the trial Court for want of payment of arrears of rent under Order 15 Rule 5 CPC. It appears to the Court that the present application was filed by the petitioner to delay the final outcome of the suit in which defence of the defendants including that of the present petitioner had been

struck off and hence they could neither file the written statement nor lead any evidence. It further appears that the petitioner attempted to preempt so that they can avoid any decision on merits of the case. Once the respondents/ plaintiffs have already concluded their evidence and the case is fixed for final arguments, where was the occasion for the petitioner to file such an application for deletion of its name when otherwise if in view of the materials on record, it would be found by the trial Court that the petitioner is not a tenant in the property in question or/and not liable to hand over possession or pay arrears of rent etc. the suit may be dismissed against the petitioner and the petitioner may press its claim for payment of compensatory costs by the other party. In view of the above, I have no hesitation to conclude that the present application is nothing but a mischievous attempt to stall the progress of legal proceedings.

For the reasons aforesaid, finding no merit, the petitions are dismissed in limine.

A photocopy of this order be placed on the files of other connected cases.

(REKHA MITTAL)
JUDGE

January 11, 2016.
Davinder Kumar