

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

111 and 111/A

1. Civil Revision No.8834 of 2015 (O&M)
Date of Decision: February 09, 2016
Mohan Lal ...Petitioner
Versus
Vinod Kumar ...Respondent

2. Civil Revision No.8866 of 2015 (O&M)
Mohan Lal ...Petitioner
Versus
Vinod Kumar ...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ashish Gupta, Advocate
for the petitioner (in both the petitions).

AUGUSTINE GEORGE MASIH, J. (ORAL)

Notice of motion.

Mr. Munish Kumar Garg, Advocate, accepts notice on behalf of
the caveator-respondent in both the petitions.

Caveat discharged.

By this order, I propose to decide Civil Revision Nos.8834 and
8866 of 2015 which have arisen out of a common order dated 18.08.2015
passed by the Rent Controller, Jind, consolidating the petition under Section
12 of Haryana Urban (Control of Rent & Eviction) Act, 1973 (hereinafter
referred to as the '1973 Act') preferred by the petitioner-Mohan Lal against
the landlord-Vinod Kumar, wherein he has asserted that the shop which is a
demised premises, requires certain repairs as there is leakage from the roof
and the petition preferred under Section 13 of the 1973 Act by the

respondent-landlord-Vinod Kumar against petitioner-Mohan Lal seeking eviction of the same demised premises on the ground that the said premises is unsafe and unfit for human habitation and being in dilapidated condition, the eviction has been prayed for of the petitioner-tenant.

It is the contention of learned counsel for the petitioner that the respondent-landlord has intentionally damaged the first floor of the demised premises and now has even damaged the roof of the premises by making certain holes so that the roof may start leaking which ultimately may lead to the dilapidation of the demised premises which would help the case of the respondent which he has preferred before the Rent Controller i.e. a petition under Section 13 of the 1973 Act. Minor repairs are required for taking care of the said damage which has been caused by the respondent and for that, a petition under Section 12 of the 1973 Act was preferred in the year 2013 which is in the form of summary proceedings, where the evidence of the petitioner is in progress, whereas the petition under Section 13 of the 1973 Act which has been preferred by the respondent-landlord in the end of 2015, is at the initial stage in which written statement has been filed. Counsel for the caveator-respondent informs the Court that the same is now listed for evidence of the respondent-landlord, who is a petitioner therein.

He, thus, contends that the petition under Section 13 of the 1973 Act which has been filed after a period of two years would have an adverse impact on the progress of the petition which has been filed under Section 12 of the 1973 Act by the petitioner which will help the respondent-landlord. He further contends that the cause of action and the relief claimed in both the cases are different and consolidation of these two

petitions is not permissible. In support of his contention, he places reliance upon the order passed by this Court in *Civil Revision No.1834 of 2015* titled as *Mehar Singh Versus Kulbhushan*, decided on 05.05.2015 and *Civil Revision No.5922 of 2013* titled as *Brij Kishore Versus Bir Singh and others*, decided on 30.09.2013. He, therefore, contends that the impugned order deserves to be set aside.

On the other hand, counsel for the respondent-landlord submits that the stand of the petitioner would be the same in the petition which has been filed by the landlord under Section 13 of the 1973 Act, as has been pleaded in petition under Section 12. Similar will be the position with regard to the respondent-landlord qua petition under Section 13 of the 1973 Act vis-a-vis the petition under Section 12 of the 1973 Act. If the stand of both the parties is going to remain the same, the evidence obviously has to be in the same nature. Since the evidence is common in both the petitions, consolidation of the two cases as ordered by the Court, is in accordance with law and in the interest of justice as it would save the time, energy and efforts to be put in by the parties and also by the Court because the issues involved in both these petitions would be identical.

Having considered the submissions made by the counsel for the parties and on going through the impugned order, I am in agreement with the stand as projected by the counsel for the caveator-respondent.

The reason which has been given by the Rent Controller in its order dated 18.08.2015 is fully justified and is in accordance with law and, therefore, do not call for any interference by this Court.

As regards the contention of the counsel for the petitioner that

the petition which has been preferred by the petitioner under Section 12 of the 1973 Act was two years prior to the filing of the petition under Section 13 of the 1973 Act and, therefore, could not be consolidated, suffice it to say both the cases as is apparent, are obviously listed for evidence of the respective petitioners and, therefore, the stage of the cases is almost similar, the judgment in *Brij Kishore's case (supra)*, therefore, would not be applicable to the case in hand.

As regards the contention of the counsel for the petitioner that two suits are for different reliefs and the cause of action is also different for which reliance has been placed upon *Mehar Singh's case (supra)*, the same is not correct in the present case, as has been observed above while agreeing with the contention of the counsel for the respondent as the stand in one petition as a petitioner would be the defence in the other case as a respondent and obviously the evidence to be led by the parties would also be the same. Instead of there being duplication of the evidence leading to wastage of time, energy and efforts, both on the part of the parties and the Court, the consolidation is the best course, as has rightly been adopted by the Rent Controller.

At this stage, counsel for the petitioner submits that the petition preferred under Section 13 of the 1973 Act bearing case No.24 of 2015 titled as *Vinod Kumar Versus Mohan Lal* filed on 01.04.2015 be treated as the lead case as it is to be tried in the ordinary course, whereas the petition under Section 12 of the 1973 Act preferred by the petitioner would be tried in a summary manner. Counsel for the respondent-landlord has no objection to the same.

In view of the above, the present petition challenging the order dated 18.08.2015, is dismissed with a modification that the petition preferred under Section 13 of the 1973 Act bearing case No.24 of 2015 titled as *Vinod Kumar Versus Mohan Lal* filed on 01.04.2015, shall be treated as the lead case.

In the light of the dismissal of the revision petition, the applications for stay i.e. CM Nos.27442-CII and 27502-CII of 2015, stand disposed of as infructuous.

February 09, 2016
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE