

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.153 of 2017 (O&M)
Date of decision: 23.03.2017

Dhan Singh & others

....Petitioners

Versus

Pushkar & another

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Arun Jindal, Advocate, for the petitioners.

G.S. SANDHAWALIA, J. (Oral)

CM-6184-CII-2017

Application for placing on record the order dated 21.03.2015 as Annexure P7, whereby issues were framed and for exemption from filing certified copy of the same, is allowed, in view of the averments made in the application, duly supported by an affidavit. Same is taken on record. Office to append the same at appropriate place.

CR-153-2017

Challenge in the present revision petition, under Article 227 of the Constitution of India, is to the order dated 09.12.2016 (Annexure P1), passed by the Rent Controller, Hodal, whereby the application for impleadment in the eviction proceedings, has been dismissed.

The reasoning given by the Rent Controller is that the present petitioners have moved an application on the ground that they are owners of the property and therefore, had prayed for being impleaded as party in the eviction petition titled as *Pushkar son of Shri Ram Narain Vs. Pappu son of Shri Bhajan Lal*. The Rent Controller, accordingly, held that in the eviction proceedings, complicated questions of title could not be decided and that the applicants could get the same decided by availing their appropriate remedy.

Counsel for the petitioners has vehemently relied upon the order dated 12.08.2014 (Annexure P4), passed in Civil Appeal No.RBT-59 of 2011 titled *Ram Narain Vs. Jagan Lal & others*, to submit that certain rights had accrued, as such, to them since the appeal filed by the legal representative of Ram Narain, namely, Pushkar, who is the alleged landlord, before the Rent Controller, had been dismissed. Resultantly, it is submitted that in such circumstances, they were entitled to be impleaded in the eviction proceedings.

A perusal of the eviction petition, instituted on 10/17.09.2014, would go on to show that respondent No.1 herein, Pushkar had filed the eviction petition on the ground that there were arrears of rent and the building was unfit and unsafe and for personal use and occupation, apart from the tenant seizing to occupy the premises. The plea taken was that the shop had been purchased from one Darshana Devi vide sale deed dated 12.12.2008. Respondent No.2 (tenant herein) had denied the factum of purchase and alleged that he was a tenant under the original owner, Gulab Chand, who, as per his version, sold the property eventually to Ramesh Chand and thereafter, it was sold to Sohan Lal and Dhan Singh. Dhan Singh-petitioner No.1 and LRs of Sohan Lal, thus, on the strength of this defence, seek impleadment.

In the written statement filed by the tenant, it was further mentioned that Dhan Singh had further sold the property to one Kishan Singh. It was further averred that Darshana Devi was not owner of the property but she had been the landlady of the tenant at some point of

time.

A perusal of the issues which have been framed *inter se* on 21.03.2015 (Annexure P7) also go on to show that there is no specific issue, as such, regarding the denial of relationship of landlord-tenant, in view of the above stand taken by the tenant. Admittedly, the case is also at the stage of conclusion and it was fixed for rebuttal evidence and arguments on 17.12.2016, when the impugned order was passed. It is stated by the counsel that the same is now fixed for 03.04.2017.

The dispute, at the instance of the present applicants, of the landlord-tenant and the right of eviction, cannot be converted here as a title dispute by virtue of the impleadment sought. Reference can be made to judgment passed in '**Ram Parkash Vs. Amar Nath and another**' 1985 (1) RCR (Rent) 21 wherein it has been held that where the dispute of ownership was raised by the brother of the vendor, he could seek remedy in civil Court for his ownership and could file a separate application of ejectment and his application under Order 1 Rule 10 CPC was dismissed, while allowing the civil revision. Thus, apparently, the impugned order does not suffer from any infirmity or illegality.

In similar circumstances, in '**Subhash Chander and others Vs. Lala Baij Nath Aggarwal and others**' 1993 (2) PLR 460 and in '**Kamla Devi and others Vs. Surinder Kumar and others**' 2006 (3) PLR 371, it has also been held to that extent that normally the plaintiff is the master of his suit. It has been categorically held that the third party claiming ownership in the suit property is not a necessary party in the rent

proceedings.

The Rent Controller has rightly given liberty to the present applicants to seek enforcement of their rights in an appropriate forum and the order impugned, as such, does not suffer from any infirmity or illegality which would warrant interference by this Court, in revisional jurisdiction. Resultantly, the present revision petition stands dismissed, in limine.

23.03.2017

(G.S. SANDHAWALIA)
JUDGE

Sailesh

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