

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

**Civil Revision No.227 of 2017 (O&M)
Decided on : 06.02.2017**

Prem Chand and another

... Petitioners

Versus

Manmohan Dass

... Respondent

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

Present : Mr. RPS Ahluwalia, Advocate
for the petitioners.

G.S. Sandhawalia, J. (Oral)

The present revision petition is directed against the order dated 26.07.2016 (Annexure P-1), whereby an application under Order 1 Rule 10 CPC filed by the petitioner-tenant has been dismissed, wherein the daughters of the deceased tenant were sought to be impleaded.

The said order was never challenged within the period of limitation before this Court and, thereafter the review application was filed which was dismissed on 05.11.2016 (Annexure P-2), which is also now sought to be challenged under Article 227 of the Constitution of India. The Rent Controller has noticed that there was no ground to review and therefore, the said application has also been dismissed.

The eviction petition was filed against the petitioners on the ground of bonafide requirement. Various objections were taken to the same including the ground of non-joinder and mis-joinder for necessary parties and all legal heirs having become statutory tenants.

Thereafter, the application under Order 1 Rule 10 CPC was filed submitting that Savita Gupta, Sangeeta Gupta, Shally Gupta and Poonam Jain daughters had also become statutory tenants.

The same was contested by filing the reply and taking the plea that even before the death of Ramesh Chand the daughters of the deceased were married and were settled in their matrimonial house. The present eviction petition has been filed against the petitioners and, therefore they are

the only tenants in the tenanted premises. Resultantly, the impugned order was passed. The application was not supported by any affidavit also. Reliance was placed upon '**Pushpa and another Vs. Gurbax Singh and another**' 2008 (2) RCR 153 to held that when daughters are married and are not in possession of house then they are not necessary parties.

As noticed the present revision petition against the said order is barred by limitation. At that point of time the said order was not challenged and review was filed. Even otherwise no where it has been mentioned that the daughters are in possession of the shop under tenancy premises and a specific stance have been taken that daughters were married long back, even during the lifetime of the Ramesh Chand and were not in occupation of shop in question. The wife and sons who were occupying the premises have been impleaded as such.

In such circumstances, the Rent Controller is well justified in declining the application under Order 1 Rule 10 CPC, keeping in view the fact that no person has come to put forth their claim.

Resultantly, keeping in view the same, this Court is of the opinion that the impugned order does not suffer from any infirmity. Even the present petition is barred by limitation and dismissed on both accounts.

FEBRUARY 06, 2017

Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No