

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

C.R. No. 3173 of 2017 (O & M)

Date of decision: 11.05.2017

Harish Kumar

....Petitioner(s)

Versus

Sunita and others

...Respondent(s)

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

Present: Mr. Sudhanshu Makkar, Advocate, for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 10581-CII of 2017

Application for placing on record Annexures P-5 to P-10 is allowed subject to all just exceptions.

The same are taken on record.

C.R. No. 3173 of 2017 (O & M)

The present revision petition is directed against the order dated 11.04.2017 (Annexure P-1) passed by the Rent Controller, Bhiwani whereby, the application under Order 1 Rule 10 CPC filed by the petitioner has been dismissed for being impleaded in the eviction petition filed by the respondent no. 1-landlady against the tenants/respondents no. 2 and 3. The reasoning given by the Rent Controller is that on an earlier occasion, similar application filed by the tenants has been dismissed by the Court and it was the will of the petitioner to choose the respondents and there was no ground to implead the applicant and his brothers as respondents in the eviction petition against the wish of the landlady.

Counsel for the petitioner has submitted that the applicants are the legal representatives of deceased Tulsi Dass, who was the original

tenant and, therefore, are necessary parties as such and he is also occupant of the tenanted premises.

It is pertinent to notice that respondent no. 3-Gyan Chand S/o Tulsi Dass, was set up as the proprietor of M/s. Krishna Paints by the landlady. The petition was filed on 02.09.2013 with the plea that the landlady had purchased the property on 19.06.2013.

A perusal of the written statement filed by the brother of Gyan Chand would go on to show that no such plea was taken that the present applicants were also in possession of the premises. Thereafter, the issues were framed on 12.09.2014 and the landlady concluded the evidence. Thereafter, an application under Order 6 Rule 17 CPC was filed for amendment that the legal representatives of Tulsi Dass, the original tenant, had not been made party in the petition. The said application was dismissed on 13.12.2016 (Annexure P-9) and the said order has not been challenged. Hence, the present application came to be filed and the landlady, in the reply, took the plea that the applications were being filed to prolong the litigation and the firm was being run in the name of M/s. Krishna Paints. The principle of *dominus litus* would, thus, come into play. The landlord is not seeking eviction of the present applicants from the shop in question and, therefore, cannot be compelled to litigate qua them. The reasoning which is given by the Rent Controller does not suffer from any infirmity or any material irregularity or illegality which would warrant interference and accordingly, the present revision petition is dismissed in limine.

11.05.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No