

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

**Civil Revision No.5107 of 2015 (O&M)
Decided on : 29.03.2017**

Monika Khullar

... Petitioner

Versus

Asha Rani and others

... Respondents

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

Present: Mr. Gagandeep Singh Sirphikhi, Advocate
for the petitioner.

Mr. N.K. Vadera, Advocate
for the respondent No.1.

G.S. Sandhawal, J. (Oral)

The present revision petition filed by the petitioner who is the daughter-in-law of the landlord is against the order dated 23.07.2015 (Annexure P-7), whereby her application for impleadment under Order 1 Rule 10 CPC as party has been dismissed in the eviction proceedings filed by her mother-in-law.

The reasons which prevailed with the Rent Controller, Batala was that the husband of the applicant had already expired and if she was allowed to be impleaded as a party, it would further delay the proceedings. Separate suit had already been filed by her for declaration of title and partition. The landlady was the widow of the original owner and had come on the basis of a Will and, therefore, the application was, accordingly, dismissed.

Counsel for the petitioner has vehemently submitted that being the widow of Suresh Khullar and on account of the death of Sat Dev Khullar, she would have 1/5th share as such in the property in question and, therefore, she is a necessary party as such for the decision of the case and

the Rent Controller was not justified in dismissing the application.

Reliance has been placed upon the judgment of this Court in ***'Surinder Kumar Nagpal Vs. Rajiv Chanana and another'* 2013 (1) RCR (Rent) 298** and the judgment in ***'Avtar Singh Vs. Amarjit Singh and others'* 2016 (1) RentLR 573** in support of the said contention.

Counsel for the respondent-landlady on the other hand submitted that the issue of title is already before the competent Court and, therefore, the Rent Controller was not a Court, before whom the issue of title as such is to be adjudicated upon and, therefore, the order was well justified and does not require interference.

A perusal of the eviction petition would go on to show that the eviction petition was filed on the ground that Sat Dev Khullar had died and the tenant, The Delhi Cloth and General Mills Co. Ltd.-respondent No.2 herein had admitted the petitioner to be landlord and had been making payment of the rent. Eviction had been sought on the ground of non-payment of rent, sub-letting to respondent No.3 and for the purposes of bonafide requirement.

In the reply to the application, the tenant-respondent No.2 admitted the fact that the respondent No.1-landlady had been receiving the rent from him being the authorized agent. It has further been averred that the relationship of landlord and tenant existed between the parties. It was further to be noticed that a plea had been taken that the landlady had filed an affidavit duly attested by the Notary Public on 10.04.1996 that the applicant-landlady was authorized to receive the rent and the rest of

the legal heirs had no objection to the said fact.

It is pertinent to mention that Sat Dev Khullar had died on 22.02.1996 and the husband of the present-petitioner had died on 25.02.2013. The non-payment of arrears of rent was from April, 2010 prior to the death of the husband of the petitioner. The cause of action thus which has accrued and was the subject matter of litigation was, thus, to be kept into mind.

As noticed the issue of title is already pending in a suit filed and, therefore, the Rent Controller would not be the correct arena where the same is to be decided. Accordingly, the order passed by the Rent Controller is well justified.

Reference can be made to the judgments passed by this Court in '*Kishori Lal (Landlord) Vs. Wazir Chand and another* '1984 (2) RCR (Rent) 335, '*Subhash Chander and others VS. Lala Baij Nath Aggarwal and others*' 1993 (2) RCR (Rent) 471, '*Anil Kumar Vs. Chaudhary Ram* 1994 (1) RCR (Rent) 413, '*Veena Rani Vs. Gian Chand*' 1994 (2) RCR (Rent) 632, '*Kiran Kumar Bansal Vs. Kusum Bansal*', 2001 (2) RCR (Rent) 263, '*Jagjit Singh Vs. Ajit Lal and another*' 2014 (1) RCR (Rent) 443 and '*Paramjit Singh VS. Gurcharan Singh Saini and others*' 2015 (1) RCR (Rent) 50.

Reliance in such circumstances in the case of *Surinder Kumar Nagpal (supra)* would not be justified.

A perusal of the said judgment would go on to show that a lease deed had been executed by the applicant-Surinder Kumar Nagpal for a portion of Plot No.98, which was subject matter of controversy. The

son-in-law with whom a matrimonial dispute had arisen had filed the petition for ejectment and had purchased part of the property in which the application under Order 1 Rule 10 CPC was declined. The petitioner in that case had on an earlier occasion filed eviction petition against the same tenant and in the said petition the son-in-law's application for impleadment had been dismissed, in spite of that the application for impleadment had been rejected. It was in such circumstances, he was allowed to be impleaded by setting aside the order which are not the circumstances in the present case. Thus, the said judgment is not applicable to the fact and circumstances of the present case.

The judgment of *Avtar Singh (supra)* was a case where the revision petition had been dismissed in limine by rejecting the contention of the petitioner and upholding the order of impleadment. Therefore, keeping in view the settled principles, the parties have to get their title and shares adjudicated out before the Civil Court and the order passed by the Rent Controller is well justified and does not warrant any interference in revisional jurisdiction.

Accordingly, the present revision petition is dismissed.

MARCH 29, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No