

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.5602 of 2017

Date of Decision: 22.08.2017

Naresh Batra and another

... Petitioners

Versus

Mahesh Batra and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ajaivir Singh, Advocate,
for the petitioners.

RAJIV NARAIN RAINA, J.

1. When the case was called on for hearing at its listed number and Mr. Ajaivir Singh, Advocate had opened arguments, Mr. Sanjay Kaushal, Senior Advocate assisted by Mr. Sunil Nehra, Advocate rose to inform the Court they were appearing for the private respondents. Thus, I have proceeded to hear both the sides.

2. This petition has been filed under Article 227 of the Constitution of India against an interlocutory order dated August 16, 2017 passed by the learned District Judge, Chandigarh dismissing an application for transfer of two rent petitions and one civil suit in one Court. The three cases being referred to are:-

1) Eviction petition filed in 2015 under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 by Smt.Manju Batra [respondent No.2 in the present petition w/o Sh. Mahesh Batra (respondent No.1 in the present petition)] against their tenant Punjab State Lotteries

department through its Director, Government of Punjab. During the pendency of the proceedings the Lotteries Department surrendered possession of the demised premises before the Rent Controller. However, Sh.Naresh Batra petitioner No.1 in the present petition had filed an application under Order 1 Rule 10 CPC to get himself pleaded in the rent petition filed by Mrs.Manju Batra. Since the application was pending the Rent Controller directed the Civil Nazir to put the seal on the lock of the door of the tenanted premises with the direction that the keys would be handed over to the rightful claimant after the decision on the application under Order 1 Rule 10 CPC. These proceedings are presently pending in the Court of Sh. Barjinder Pal Singh, Rent Controller, Chandigarh.

2) Meanwhile, Sh.Naresh Batra filed an ejectment petition against the Government of Punjab and others qua the same property being a triple storey Shop-cum-Office No.106, 107, 108, Sector 17-D, Chandigarh.

3) In addition, Sh.Naresh Batra filed a civil suit against the Government of Punjab and others which is pending before another Civil Judge (Junior Division), Chandigarh (Sh.Imanbir Singh Dhaliwal). Service in both the cases is not complete. Obviously the trial will take considerable time.

3. The learned District Judge has noticed in his order that the dispute is between two sets of landlords for determination inter alia as to which one of them is entitled to be delivered the possession of the tenanted premises.

4. This petition arises out of an application filed by Sh.Naresh Batra for transfer of the civil suit to the Rent Controller by clubbing the

three cases. The learned District Judge, Chandigarh has disallowed the application for transfer of the case for the reason that the ejectment petition has almost attained finality while the cases filed by Sh.Naresh Batra are at the initial stage pending service of some of the respondents arrayed therein. This means that the objective of Sh.Naresh Batra in the present case is to prolong the proceedings in the rent petition which is mature for final hearing pending consideration of an application filed by Sh Naresh Batra under Order 1 Rule 10 CPC.

5. It may be noticed that the civil suit filed by Sh.Naresh Batra is for permanent injunction *inter alia* to restrain the defendants from handing over the vacant and physical possession of the tenanted premises to Sh. Mahesh Batra, Smt.Manju Batra, Sarvshri Vikram Batra and Vineet Batra. The last two are the sons of Sh.Mahesh Batra and Smt.Manju Batra. Petitioner No.2 in the present petition is the son of Sh.Naresh Batra. It is asserted in the suit that the petitioner is the owner to the extent of 75% share in the demised property in Sector 17 Chandigarh whereas the private respondents are owners to the extent of 25% share. Therefore, gross injustice would result if possession is handed over to the private respondents. The plaint in the suit has been attached with this petition. The Government of Punjab is defendant No.1. The reply of the private respondents to the application under Order 1 Rule 10 CPC is also annexed.

6. In the reply, it is pointed that the present petitioner played truant with this Court in the past in a bunch of criminal petitions with lead case Crl. Misc. No.M-202 of 2008 & (5473, 10981, 34129 of 2008 a& 30844 of 2011 the rest) that all the criminal cases should be listed before

one Judge of this Court. Leaving aside the rest for a moment, suffice it to say that Ranjit Singh, J. by order dated December 03, 2012 observed in *Rahmutlah Ansari and others v. Naresh Batra* that the pleadings put in by Sh. Naresh Batra had left a lot of pain in the Court by uncalled for insinuatory remarks made against the Hon'ble Judge [since retired] without any basis and the applicant Naresh Batra had behaved in an irresponsible manner by making remarks against the Court that he apprehended injustice and, therefore, all the bunch cases should be clubbed for hearing. The matter had even gone up to the Supreme Court and the Special Leave Petitions to appeal filed by Sh.Naresh Batra have been dismissed. The order passed by this Court referred to above was produced by Mr. Sanjay Kaushal, Senior Counsel to emphasize that petitioner No.1's attempt to club criminal cases in the past had miserably failed. Sh.Naresh Batra had to face contempt proceedings for scrullious remarks in pleadings against an Hon'ble Judge and had to tender an apology.

7. It is not that if Sh. Naresh Batra's attempts to get clubbed the criminal cases failed and therefore, his present request would have to be turned down. No, that is not the reason which weighs in my mind while examining this case, after hearing counsel at sufficient length I find no connection whatsoever in the rent petitions and the civil suit to club them in one Court for decision and especially I would agree with the learned District Judge that at the stages when the cases filed by Sh. Naresh Batra with civil suit pending in the Court of Civil Judge Sh. Imanbir Singh Dhaliwal, PCS (J) and the rent petition filed by Smt.Manju Batra pending in the Court of Sh.Barjinder Pal Singh, PCS (J)-Rent Controller, Chandigarh should not be

clubbed together by transfer of cases to one Court.

8. We cannot miss the point that the application filed by Sh. Naresh Batra under Order 1 Rule 10 CPC is pending in the Court of Sh. Barjinder Pal Singh and the rent petition which had albeit reached the conclusion stage when the tenant opted out of the demised premises by vacating them by handing over the keys to the Court, I find additionally to affirm the impugned order that there is a safeguard put by the Rent Controller in his order that the keys would be handed over only after the final decision in the application presented under Order 1 Rule 10 CPC and, therefore, the apprehension of likelihood of injustice being caused in the mind of the petitioners is wholly misplaced, premature and misjudged. The rent petition seeks only to evict tenant who has already left the demised premises. Hence, the rent proceedings are not intimately concerned with ownership rights or shares of the respective litigating sides, which rights can be determined in the civil suit pending or in any other proceeding.

9. I find no cogent reason to tinker with the order passed by the learned District Judge, Chandigarh on August 16, 2017 and would hereby commend the dismissal the petition.

10. Accordingly, the petition against the interlocutory order is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

22.08.2017

manju

Whether speaking/reasoned

Yes

Whether reportable

No