

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CR No.6080 of 2017 (O&M)****Date of decision: 18.09.2017**

Jagroop Singh

...Petitioner

Vs.

Gurpreet Singh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Santosh Sharma, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

The Rent Controller, Ludhiana has passed a perfectly legal and justified order dismissing the application presented by the tenant under Order 7 Rule 11 of the CPC for rejection by imposing ₹10,000/- costs on him. This revision petition is by the tenant who disclaims his status as a tenant and challenges the status of the original petitioner as owner of the suit land on which the shop in dispute has been constructed in which the petitioner carries on business. The learned Rent Controller has relied on two judgments of the Supreme Court reported as R.K.Roja Vs. U.S.Rayudu & others, 2016 (3) CCC 790 and P.V.Guru Raj Reddu represented by GPA Laxmi Narayan Reddy & others Vs. P. Neeradha Reddy & others, 2015 (2) CCC 513, wherein it has been held that while dealing with an application under Order 7 Rule 11 of the CPC, only the averments made in the plaint have to be seen. The stage of written statement has not reached. If the respondent/petitioner relies on a *jamabandi* which is placed on record of this case, as was placed along with the application under Order 7 Rule 11 of the CPC, then it is a matter of trial and evidence. The contents of the eviction

petition are to the effect that the petitioner is landlord. If he is not a landlord or owner of the property in question that can be established only by way of evidence for and against and if the application under Order 7 Rule 11 of the CPC is allowed, it would amount to a premature death amounting to a grave miscarriage of justice and that too at the commencement of the trial. The eviction petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 is not prima facie barred by law. I would, therefore, not interfere with the interlocutory order and would commend the dismissal of the petition.

Since I am dismissing the instant petition without summoning the respondent to answer the notice, I refrain from imposing further costs on the petitioner given that it has been recorded in the impugned order that the petitioner is in the habit of filing frivolous applications, one after the other which are impeding the progress of the trial.

Besides, no palpable injustice has been caused to the petitioner by the impugned order, since he is not precluded from producing whatever evidence he may have with him when his turn comes for recording of evidence. The issues are yet to be framed. He may turn in his written statement for the trial to proceed.

Hereby, the petition is dismissed.

18.09.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No