

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

**Civil Revision No.8157 of 2015 (O&M)
Decided on : 11.01.2017**

Veena Viswanathan and another

... Petitioners

Versus

Ram Lubhaya @ Dhan Raj and others

... Respondents

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

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

Mr. L.M. Suri, Senior Advocate with
Mr. Rajiv Joshi, Advocate for respondent No.1.

None for L.Rs of respondent No.2.

G.S. Sandhawalia, J. (Oral)

The petitioners-applicants are aggrieved against the order of the dismissal of their application under Order 1 Rule 10 CPC dated 12.10.2015 (Annexure P-1) by the Appellate Authority in the appeal filed by respondent No.2/tenant. The reasoning given by the Appellate Authority is that the possession was with Dogar Mal father of respondent No.2 and reliance was placed upon the statement made by the said tenant where the amount was to be paid to Bal Kaur and the name of Ramawanti as respondent was to be deleted.

It is pertinent to mention that the petitioner-applicants are the daughters of Ramawanti. In view of the order passed by the Senior Subordinate Judge, Hoshiarpur under the Punjab Relief of Indebtedness Act, 1934 the amount in question was paid to Bal Kaur. Resultantly, it was held that the application for ejectment has been filed by Ram Lubhaya on the

ground of personal necessity being landlord/owner and even if Ramawanti had some right in the property, then also the petition filed by Ram Lubhaya was maintainable, since *prima facie* the property was rented out by Bal Kaur predecessor in interest of the said respondent. Accordingly, it was observed that since the question of title was not to be decided in the rent appeal, they were not necessary parties.

It is not disputed that the respondent No.1 Ram Lubhaya filed the ejectment application on the ground that rent had not been paid under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 against respondent No.2-Sumer Chand, who has now expired leaving behind his legal heirs. Sumer Chand had also set up the dispute regarding the relationship of landlord and tenant and placed reliance upon the rent deed dated 09.09.1977 (Annexure P-2), which was executed by Ramawanti in his favour.

The Rent Controller had framed an issue whether there is any relationship of landlord and tenant between the parties and come to the conclusion that mere execution of rent deed in favour of Ramawanti and the payment of rent as such would not make out a relationship of tenant and landlord. Reliance was also placed upon the admission made by the Dogar Mal father of the tenant in his petition under Section 31 of the Punjab Relief of Indebtedness Act, 1934 dated 19.09.1964 (Ex.P-3). The said statement was thus made more than a decade earlier before the rent deed was executed by Ramawanti in favour of the tenant.

It is to be noticed that the petitioners have already filed a

civil suit dated 13.08.2013 (Annexure P-6) for claiming their rights to the property in concern in which not only Ram Lubhaya was arrayed as defendant No.1, but even the deceased tenant, namely, Sumer Chand was also impleaded as defendant No.2. It was only, thereafter they filed the application for being impleaded as a party in the present appeal against the order of ejectment.

It is settled principle that a disputed question of title has to be decided by the Civil Court. The issue in question before the Appellate Authority and the proceedings instituted under the Rent Act is only qua the relationship of landlord and tenant. It is also not necessary that the landlord is owner as such and can be a person entitled to receive the rent. That under Section 2(c) of the Act, the landlord need not be the owner of the property in question and can be any person who is entitled to receive the rent. Section 2(c) of the Act is reproduced as under :-

"Section 2(c). 'landlord' means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit of any other person, or as a trustee, guardian, receiver, executor or administrator for any other person, and includes a tenant who subjects any building or rented land in the manner hereinafter authorised, and, every person from time to time deriving title under a landlord;"

11. The Hon'ble Supreme Court of India in ***K.D. Dewan v. Harbhajan Singh Parihar, 2002(1) R.C.R.(Rent) 214 : 2002 (2) PLR 682***, has held that it is not necessary for the landlord to be the owner of the property. Relevant paras of the said judgment read as under :-

"7. A perusal of the provision, quoted above, shows that

the following categories of persons fall within the meaning of landlord : (1) any person for the time being entitled to receive rent in respect of any building or rented land; (2) a trustee, guardian, receiver, executor or administrator for any other person; (3) a tenant who sublets any building or rented land in the manner authorised under the Act and (4) every person from time to time deriving title under a landlord. Among these four categories of persons, brought within the meaning of 'landlord', Mr. Sharma sought to derive support from the last category. Even so that category refers to a person who derives his title under a landlord and not under an owner of a premises. For purposes of the said category the transferor of the title referred to therein must fall under any of the categories (1) to (3). To be a landlord within the meaning of clause (c) of section 2 a person need not necessarily be the owner; in a vast majority of case an owner will be a landlord but in many cases a person other than an owner may be as well be a landlord. It may be that in a given case the landlord is also an owner but a landlord under the Act need not be the owner. It may be noted that for purposes of the Act the legislature has made a distinction between an owner of a premises and a landlord. The Act deals with the rights and obligations of a landlord only as defined therein. Ownership of a premises is immaterial for purposes of the Act.

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14. From the above discussion it follows that such a truncated meaning of the term 'landlord' cannot be imported in clause (c) of section 2 of the Act having regard to the width of the language employed therein and there is no other provision in the Act to restrict its meaning for purposes of Section 13(3)(a) thereof to an owner of the premises alone. The appellant has been paying monthly rent of the premises to the respondent from 1976. The respondent is thus the landlord of the premises under the Act and is entitled to seek relief under Section 13(3)(a) of

the Act. In this view of the matter, we find no illegality in the order of his High Court under challenge. The appeal is without merit and it is liable to be dismissed."

In such circumstances, once the petitioner-applicants have already filed a civil suit for declaration against the respondent No.1 and others, the order passed by the Appellate Authority as such dismissing their application for impleadment would not suffer from any infirmity which would warrant interference. It is, however, made clear that the observations made herein are only for the purpose of deciding the present revision petition and the Appellate Authority will be free to decide the appeal on the basis of the evidence before it, regarding the issue of relationship of landlord/tenant.

Accordingly, the present revision is dismissed.

JANUARY 11, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No