

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

Date of decision: 11.12.2017

CR No.8646 of 2017

Ajudhya Sagar & others

...Petitioners

Vs.

Yogesh Gupta & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Joginder Sharma, Advocate, for the petitioners.

RAJIV NARAIN RAINA, J. (ORAL)

1. I find no infirmity in the order passed by the Rent Controller, Ludhiana dated 21.09.2016 allowing the application filed by Sandeep Jindal under Order 1 Rule 10 CPC for impleading him as respondent No.2 in the eviction petition. Sandeep Jindal – respondent No.2 is the son of one late Ashok Jindal. According to the petitioner/landlords, late Ashok Jindal was the sub tenant of Yogesh Gupta – respondent No.1.

2. It is argued on the strength of Reema Rani Vs. Gurmukh Singh & another, 2004 (4) RCR (Civil) 761 that in a petition for eviction of tenant on the ground of sub-letting, sub tenant is not a necessary party although he might be in possession of the demised premises. The principle is that the petitioner is *dominus litus* of his court action and if he has not impleaded a person as party, he cannot be compelled to fight litigation against him.

3. On a query put, whether the tenancy between the petitioners and Yogesh Gupta was entered upon by a rent note/lease deed, the answer is in the negative. Incidentally, two eviction petitions have been filed for non-payment

of rent, one for eviction on ground of non-payment w.e.f. 16.09.2004 to 15.01.2012 and the other from 16.01.2012 till up to date.

4. In the application, Sandeep Jindal claimed that earlier his father was the tenant in the demised premises bearing No.1716, Street No.12, Dasmesh Nagar, Gill Road, Ludhiana, having an electricity connection under petitioner No.3, namely, Gorak Nath since 2003. It has been asserted in the application that the original tenant was not Yogesh Gupta, but the father of the applicant Sandeep Jindal. The tenancy has been continuing since 2003 and the electricity tariff etc. are paid directly by the applicant. The father of the applicant ran the business of manufacturing and trading of power loom parts in the tenancy premises under the name and style of 'M/s Pooja Textiles' and has been paying rent to petitioner No.3 regularly. Petitioner No.3 is Gorak Nath, while the other petitioners are Ajudhya Sagar and Ramesh Kumar. All three have filed a joint petition for eviction of Yogesh Gupta. The asserted tenancy was oral, but coupled with delivery of possession. After the death of the father in 2004, the applicant says he stepped into the shoes of his father and became sole proprietor of M/s Pooja Textile Traders. He has documents in his possession including the payment of license fee, its receipts issued by the Municipal Corporation, Ludhiana; Form-B and Form-F issued by the Labour Inspector etc.

5. Thus, the question, as to whether the applicant – respondent No.2 is a tenant or a sub tenant, can only be decided when the evidence is adduced by the parties and, therefore, the judgment in *Reema Rani's* case is distinguishable on facts as there were no such dispute in the present case, though the legal principle is without doubt. The fact of the matter is that Yogesh Gupta – respondent No.1 is ex parte and in case the application is dismissed, the

landlords would succeed by default. Moreover, he asserts that he pays rent to one of the petitioning landlords.

6. Consequently, I have no reason to interfere with the order passed by the Rent Controller and would dismiss this petition. Besides, no prejudice would be caused to the petitioners with the case being decided on merits. However, no opinion is expressed on the merits of the case of the applicant which will be decided on evidence produced at the trial.

11.12.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>