

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 15 of 2018

Date of Decision: 09.01.2018

Satish Kumar

...Petitioner

VERSUS

Dev Bala and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Avnish Mittal, Advocate
for the petitioner.

SURINDER GUPTA, J.(Oral)

Heard.

This is revision against order dated 16.12.2017 passed by Civil Judge (Junior Division), Ludhiana dismissing the objections filed by petitioner, who is tenant in the demised premises and has been ordered to be ejected by the Rent Controller. He availed remedy of appeal and revision against order of ejectment but ultimately failed. Before the Executing Court he raised one objection after the other including question of title of the decree holder, his filing of petition for ejectment without consent of other co-sharers. He then filed one more application dated 12.09.2016 to the effect that one of the co-sharers Sh. Rajnish Thamman had agreed to rent out the tenanted premises and had also shown willingness to sell out his share in the tenanted premises. This has frustrated the plea of *bona fide* need raised by the decree-holder. One more application dated 08.12.2016 was filed on the ground that one half share in the tenanted premises had been sold to JDs no. 3 and 4 (sons of JD no. 1) by one of the co-owners vide registered sale deed dated 27.10.2016, as such eviction decree had become

infructuous. The petitioner filed one more application dated 28.11.2017 for treating the executing petition as null and void as the petitioner had paid the rent to JDs no. 3 and 4 (sons of JD no. 1) and obtained receipts from them.

Learned Executing Court after relying on observations of Hon'ble Apex Court in case of **Pramod Kumar Jaiswal vs. Bibi Husn Bano, 2005 (1) RCR (Rent) 570** and observations of this Court in cases of **Mohan Lal vs. Amrik Singh, 2007 (2) RCR (Rent) 686** and **Narender Kumar vs. Amar Lal, 2016 (3) PLR 329** has observed that the tenancy right of a tenant could not merge with the ownership and subsequent purchasers are under legal obligation to first surrender possession of the tenanted property and then seek separate remedy of partition.

Learned counsel for the petitioner has referred to observations of Hon'ble Apex Court in case of **Imambi vs. Azeeza Bee, 2002 (2) RentLR 385**, wherein it has been observed that after the decree of specific performance of the property in favour of tenant his status seizes to be that of a tenant and he assumes title over the suit property. Above observations in no manner are helpful to the appellant as he has not purchased any right in the tenanted property. He has also relied on observations of this Court in case of **Kewal Krishan and another vs. S.P.S. Bhullar, Advocate and antoher, 2014 (2) RCR (Civil) 907**, wherein it has been observed that decree-holder is bound to show better title to defeat the title pleaded by a third party. In this case no third party has pleaded better title over the suit property. Even otherwise citations referred by learned counsel for the petitioner have clearly laid down the law that subsequent purchaser against whom ejectment order has been passed, are under legal obligation first to surrender possession of the tenanted property and then seek separate remedy

of partition.

In view of above facts, I find no legal or factual infirmity in the order passed by learned Civil Judge (Junior Division), Ludhiana, as such, the instant revision petition has no merit and the same is dismissed.

January 09, 2018

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No