

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 2185 OF 2018(O&M)

Date of decision: 04.04.2018

Dev Wati Gupta and anr.

.. Petitioners

vs.

Mohinder Kumar Sain and ors.

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present:- Mr. Sanjeev Gupta, Advocate
for the petitioners.

Harinder Singh Sidhu, J.

This revision petition has been preferred impugning the order dated 20.3.2018 of the learned District Judge, Bathinda.

The petitioners had filed seven eviction petitions against different tenants, who were occupying different shops, in the same building. In three rent petitions, eviction orders were passed, against which, the tenants had preferred appeals bearing RA- 43 -2017 titled as Mohinder Kumar Sain vs. Dev Wati Gupta, RA-44-2017 titled as Chander Parkash vs. Dev Wati Gupta and RA-26-2017 titled as Bunty vs. Sanjeeva Gupta . These appeals were listed before different appellate authorities. The petitioners had moved an application on the administrative side before learned District Judge, Bathinda requesting that all the three appeals, pending before different appellate authorities, be clubbed and be posted for hearing before one appellate authority. The learned District Judge vide impugned order declined the application by observing that in all the three appeals, there were different cause of action and all the eviction applications have been dealt with by different Rent Controllers. Further the parties have no concern with each other and there was no justification for clubbing the three appeals.

Learned counsel for the petitioner relies upon Section 17 A of the East Punjab Urban Rent Restriction Act, 1949 (in short 'the Act, 1949'), which is as under:-

“Power to transfer proceedings from one appellate authority or Controller to another:- (1) The High Court may, on an application made to it or otherwise, by order transfer any proceedings pending before any appellate authority to another appellate authority and the appellate authority to whom the proceeding is so transferred may, subject to any special direction in the order of transfer, dispose of the proceeding.

(2) An appellate authority may, on an application made to it or otherwise, by order transfer any proceeding pending before any Controller to another Controller within its jurisdiction and the Controller to whom the proceeding is so transferred may, subject to any special directions in the order of transfer, dispose of the proceeding.”

He contended that the power to transfer proceedings from one appellate authority to another vests only with the High Court. He states that it was through inadvertance that the applications were moved by the petitioners before the learned District Judge. He states that the observation made in the impugned order to the effect that in each eviction petition, there are different cause of action may be prejudicial to the case of the petitioners.

Having heard learned counsel for the petitioners and in view of the provisions of Section 17-A of the Act, 1949, as per which it appears that the powers to transfer proceeding from one appellate authority to another

appellate authority vests only with the high court, this revision petition is allowed. The impugned order is set aside.

04.04.2018
dinesh/neeraj

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable:	Yes/No