

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

1. CR No.4367 of 2016 (O&M)
Date of decision : 08.10.2018

Smt. Prem Lata Kapoor ...Petitioner

Versus

Kamlesh Kapoor ...Respondent

2. CR No.7875 of 2017 (O&M)
Date of decision : 08.10.2018

Mrs. Kamlesh Kapoor ...Petitioner

Versus

Prem Lata Kapoor ...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. L.M. Gulati, Advocate for the petitioner
(CR No.7875 of 2017)
for the respondent (In CR No.4367 of 2016)

Mr. A.P.S. Sandhu, Advocate for the petitioner
(In CR No.4367 of 2016)
for the respondent (In CR No.7875 of 2017)

ANIL KSHETARPAL, J. (ORAL)

CM No.13571-CII of 2016 in CR No.4367 of 2016

Prayer in the application is for producing the documents
Annexures A-1 to A-4, in additional evidence.

Application is dismissed as not pressed.

CM No.24174-CII of 2017 in CR No.7875 of 2017

For the reasons stated in the application, which is duly supported
by an affidavit, delay of 402 days in refiling the present petition is condoned.

Application is allowed.

Main cases

By this order, two revision petitions, one filed by the tenant and other filed by the landlord shall stand disposed of.

Admittedly, late Sh. Kirti Kumar Kapoor was inducted as a tenant. A previous petition was filed by the landlord against Sh. Kirti Kumar Kapoor. During the pendency of the aforesaid petition, Sh. Kirti Kumar Kapoor died on 26.07.2007. Smt. Kamlesh Kapoor (petitioner in CR No.7875 of 2017) filed an application for being impleaded as the only legal heir. Although, it was mentioned in the application that Sh. Kirti Kumar Kapoor had left behind a son and a daughter apart from a widow. The aforesaid application was allowed by the Court and Smt. Kamlesh Kapoor, widow was only impleaded as legal heir.

The present petition was filed by the landlord on 18.08.2008 against Smt. Kamlesh Kapoor. This petition was contested by Smt. Kamlesh Kapoor through her attorney, son namely Diptesh Kapoor.

Both the Courts after finding that the landlord requires the premises for bona fide necessity, dismissed the petition only on the ground that all the legal heirs of tenant have not been impleaded as parties to the petition.

Learned counsel for the petitioner-landlord at the outset drew attention of the Court to the judgment passed by Hon'ble the Supreme Court in the case of **Suresh Kumar Kohli Vs. Rakesh Kumar Jain and another, 2018 (3) Civil Court Cases 769 (S.C.)** to contend that on the death of the tenant, the tenancy is inherited by all the legal heirs as joint tenants and it is not necessary for the landlord to implead all the legal heirs of the deceased tenant. The conclusion drawn by Hon'ble the Supreme Court is extracted as under:-

“20) We are of the view that in the light of H.C. Pandey (supra), the situation is very clear that when original tenant dies, the legal heirs inherit the tenancy as joint tenants and occupation of one of the tenant is occupation of all the joint tenants. It is not necessary for landlord to implead all legal heirs of the deceased tenant, whether they are occupying the property or not. It is sufficient for the landlord to implead either of those persons who are occupying the property, as party. There may be a case where landlord is not aware of all the legal heirs of deceased tenant and impleading only those heirs who are in occupation of the property is sufficient for the purpose of filing of eviction petition. An eviction petition against one of the joint tenant is sufficient against all the joint tenants and all joint tenants are bound by the order of the Rent Controller as joint tenancy is one tenancy and is not a tenancy split into different legal heirs. Thus, the plea of the tenants on this count must fail.”

Learned counsel for the respondent-tenant who is also for the petitioner in separate petition could not draw attention of the Court to any judgment to the contrary. In view of the aforesaid judgment, the revision petition filed by the landlord bearing CR No.4367 of 2016 is allowed whereas the revision petition filed by the tenant bearing CR No.7875 of 2017 is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

08.10.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No