

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CM-17771-CII-2018 in/and
CR-5048-2014 (O&M)
Date of Decision : 27.9.2018

Satya Rani and another

....Petitioners

vs.

Ramesh Chander

....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Umesh Narang, Advocate
for the applicants-petitioners.

Mr. K.S.Malik-I, Advocate
for the non-applicant/respondent.

Mr. N.K.Malhotra, Advocate

AJAY TEWARI, J. (Oral)

CM-17771-CII-2018

This is an application for recalling of the order dated 17.7.2018
on the ground that the counsel who made the statement was never engaged
by the applicant and they had never given any instructions to him.

On 10.3.2015 the following order was passed :-

*“Present: Mr. Sanjiv Gupta, Advocate
for the petitioners.*

Notice of motion for 29.05.2015.

*Interim stay on condition that the petitioner deposits
Rs.35,000/- before the Rent Controller within a period of four weeks
from the date of receipt of copy of this order failing which the stay*

granted shall stand vacated without reference to this Court. On such deposit, the landlord is permitted to withdraw the same without any security. The petitioner will continue to pay/deposit the rent at the rate of Rs.1500/- per month during all the proceedings. The respondent is at liberty to approach this Court for any modification of the order or for determination of mesne profits if he so pleases.”

I am little skeptical about this claim because after reading the order it is clear that when the notice of motion was issued the same counsel had appeared and argued the matter and it is also not in dispute that it is on the basis of this interim order that applicant-petitioner-tenant was continuing in possession. Thus, to now completely deny that there was any relationship between her and Mr. Sanjeev Gupta Advocate seems a far fetched. Any how, I do find that there is no power of attorney of Mr. Sanjeev Gupta, Advocate and consequently, recall the case and hear the arguments afresh.

Application stands allowed.

Main Case

Heard.

On 20.1.2015 the following order was passed :-

“In the earlier petition for eviction filed by Krishan Lal Dhingra against Om Parkash, husband of petitioner No. 1-Satya Rani and father of petitioner No. 2-Lovely, a specific plea was raised that Om Parkash predecessor of petitioner(s) was tenant of Ramesh Chander. Copies of the said petition and written statement are Annexures P-1 and P-2, respectively. Now, in the petition filed by Ramesh Chander respondent, a plea has been set up by the petitioners that they were the tenants under Krishan Lal Dhingra and not the respondent.

Faced with these above facts, learned counsel for the petitioners seeks some time to place on record copies of the pleadings of parties in the instant rent petition filed by the respondent including the rejoinder.

List on 30.1.2015.

Let the needful be done before the next date.”

Thereafter, the pleadings of the previous case were placed on record i.e. Annexures P-1 and P-2 by application bearing CM-27431-CII-2014. On going through the pleadings of the previous case, I find that Krishan Lal Dhingra had filed the earlier petition. A specific case of the predecessor in interest of the applicant-petitioners was that Krishal Lal Dhingra was not the landlord but they were the tenants to Ramesh Chander. Thereafter, by application bearing CM-3018-CII-2015 the pleadings of the present case were placed on record and in the written statement it was denied that Ramesh Chand was the landlord and it was rather pleaded that Krishan Lal was the landlord.

In the circumstances, the finding of the appellate authority that the petitioners had falsely denied the relationship of the landlord and tenant cannot be disturbed.

The appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

27.9.2018
anuradha

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No