

In the High Court of Punjab and Haryana at Chandigarh

CR No. 5005 of 2018
Date of Decision:13.9.2018

Ajesh Kumar

---Petitioner

vs.

Rajesh Kumar and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr.Satpal Dhamija, Advocate
for the petitioner

Rekha Mittal, J.

The present petition directs challenge against order dated 3.7.2018 (Annexure P-1) passed by the Rent Controller, Ambala whereby application for impleading the petitioner as one of the legal representatives (in short 'the LR') of Narinder Kumar Ahluwalia (since deceased) has been dismissed.

Counsel for the petitioner would argue that Narinder Kumar Ahluwalia filed an application for eviction under Section 13 of the Haryana Urban Control of Rent & Eviction Act, 1973 (in short "the Act") against his tenant Smt. Satya Vati, before the Rent Controller, Ambala. During pendency of the eviction proceedings, Narinder Kumar Ahluwalia died on 6.1.2011 and Rajesh Kumar Ahluwalia-respondent No. 1, brother of the petitioner filed an application for impleading him as LR of deceased on the basis of Will. The Rent Controller allowed the application of respondent

No. 1 vide order dated 22.2.2011 (Annexure P-2). The eviction proceedings culminated in eviction order dated 9.4.2011 (Annexure P-3). Smt. Satya Vati filed appeal against the eviction order but the same was dismissed by the Appellate Authority. The tenant filed Civil Revision No. 5662 of 2013 to challenge the orders passed by the Rent Controller and the Appellate Authority. The petitioner filed Civil Misc. application under Order 1 Rule 10 of the Code of Civil Procedure for impleading him as a party in the aforesaid revision petition. The same was allowed by this Court vide order dated 5.2.2018 (Annexure P-4). The Civil Revision was dismissed vide order dated 16.4.2018. It is argued that as the petitioner has also become one of the decree holders in view of order Annexure P-7 passed in Civil Revision No. 5662 of 2013, the petitioner is entitled to be made a party in the pending execution proceedings initiated at the behest of respondent No. 1. It is further argued that status of respondent No. 1 and the petitioner viz-a-viz Sh. Narinder Kumar Ahluwalia (since deceased) is the same being sons of late Prahlad Bhagat, brother of Narinder Kumar Ahluwalia, therefore, there is no reason to deny claim of the petitioner for being impleaded as a party on the array of petitioner in the pending execution proceedings.

I have heard counsel for the petitioner, perused the paper book particularly various annexures appended with the petition.

Indisputably, eviction proceedings were pursued by Sh. Rajesh Kumar Ahluwalia being LR of Narinder Kumar Ahluwalia (since deceased) that culminated in eviction order passed by the Rent Controller, affirmed in appeal by the Appellate Authority and this Court as Civil Revision filed by

unsuccessful tenant was dismissed on 16.4.2018. In the proceedings pending before this court initiated at the behest of Smt. Satya Vati against Rajesh Kumar Ahluwalia, the CM was allowed in view of statement made by counsel for respondent No. 2 (petitioner therein) raising no objection whereas counsel for respondent No. 1 made a statement that the petitioner may be allowed to be impleaded only for the purpose to contest the petition. Accordingly, this court allowed the application and the present petitioner was ordered to be impleaded as respondent No. 2. This court has not determined if the petitioner can claim himself to be LR of Narinder Kumar Ahluwalia much less that in case the eviction order is affirmed, then he would be entitle to file an application for execution of the eviction order. The mere fact that the petitioner was allowed to be impleaded as a party in CR No. 5662 of 2013, in the circumstances discussed hereinbefore, would not entitle him to press his claim that he should be permitted to pursue execution proceedings. There is nothing on record suggestive of the fact that if the petitioner wanted to assert his claim being one of the LRs of deceased Narinder Kumar Ahluwalia, why did he remain silent throughout when the eviction proceedings were pending before the Rent Controller and the Appellate Authority. It further appears that the petitioner just want to sneak in the execution proceedings, may be, on account of collusion between the petitioner and respondent-tenant.

Indisputably, the order passed by the Rent Controller allowing Rajesh Kumar Ahluwalia to pursue the eviction proceedings being LR of Narinder Kumar Ahluwalia (since deceased) was never challenged by the petitioner, therefore, the same has attained finality so far as right of Rajesh

Kumar Ahluwalia to pursue the litigation on behalf of Narinder Kumar Ahluwalia is concerned. Rajesh Kumar Ahluwalia has set up a Will purported to be executed by Narinder Kumar Ahluwalia though the question of correctness or legality of the Will can neither be raised nor decided by the Rent Controller, a fora with limited jurisdiction created for a specific purpose. At the same time, the petitioner cannot even claim himself to be LR of deceased Narinder Kumar Ahluwalia during life time of brothers of said Narinder Kumar Ahluwalia. In this view of the matter, I do not find an error much less illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

13.9.2018
paramjit

Whether speaking/reasoned: Yes
Whether reportable : Yes/No