

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

1. **Civil Revision No.5789 of 2018**
Date of Decision: December 18 , 2018.

Ramesh Kumar PETITIONER(s)

Versus

Tarkeshwar RESPONDENT (s)

2. **Civil Revision No. 5790 of 2018.**

Ramesh Kumar PETITIONER(s)

Versus

Tarkeshwar RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Munish Gupta, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This order shall dispose of Civil Revision No.5789 of 2018
(Ramesh Kumar v. Tarkeshwar) and Civil Revision No.5790 of 2018 (Ramesh
Kumar v. Tarkeshwar).

The petitioner is aggrieved of orders dated 11.07.2018 passed by

the learned Rent Controller, Narnaul dismissing his applications for impleading all the legal heirs of late Banshidhar as parties to the respective petition/application.

Petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (for short, the 'Act') was filed by the respondent seeking eviction of the petitioner-tenant from the demised premises (Annexure P1 in CR No.5789 of 2018). An application under Section 4 of the Act for assessment of the fair rent was also moved by the respondent (Annexure P1 in CR No.5790 of 2018). During pendency of both the matters, applications under Order 1 Rule 10 CPC were moved by the respondent in both the matters (Annexure P2 in both the petitions) while pleading that the demised premises i.e., a shop had been taken on rent by the petitioner from its original owner -Banshidhar (since deceased) vide rent note dated 12.10.1982. Subsequently rent notes dated 12.09.1997 and 30.01.2001 were executed. Banshidhar passed away on 04.09.2003 and was survived by his legal heirs, namely, (a) Rohtash Kumar, (b) Tarkeshwar, (c) Chetan Dev, (d) Chet Ram sons, (e) Smt. Banarsi Devi widow of Banshidhar, (f) Santosh, (g) Laxmi, and (h) Geeta. One of the legal heir Smt.Geeta also expired and is survived by (a) Mukesh and (b) Niranjana (sons). It was further stated that it came to notice that series of disputes are pending between the legal heirs of Banshidhar. It was submitted that right of the landlord to claim and receive entire rent of the demised shop cannot be determined in the absence of all the legal representatives of Banshidhar. Reply to the application was filed (Annexure P3 in both the petitions). Learned Rent Controller vide impugned orders of even date 11.07.2018 dismissed the

application of the petitioner. Aggrieved therefrom, the present revision petitions have been filed.

Learned counsel for the petitioner vehemently argues that as per the rent deed (Annexure P5 in both the petitions), rate of rent has been specifically mentioned as ₹1,730/- per month in favour of not only the respondent-landlord, but his three other brothers, namely, Rohtash Kumar, Chetan Dev and Chet Ram. A legal notice (Annexure P6) was issued by Chet Ram to the petitioner as well as the respondent. Thereafter, 1/4th of the rent is being paid to Chet Ram by the petitioner. Petition seeking ejectment of certain other tenants from another property filed by Chet Ram was dismissed and the said decision was upheld by the learned Appellate Authority, Narnaul as reflected in Annexure P7. It is thus prayed that the present petitions be allowed and all the legal heirs of Banshidhar be permitted to be made parties to the petition/application.

Learned counsel for the respondent refutes the abovesaid averments while submitting that petitioner-tenant has accepted the respondent as the landlord. Thus, order dated 11.07.2018 has been rightly passed by the learned Rent Controller. It is prayed that the impugned orders be upheld.

I have heard learned counsel for the parties and have gone through the file.

It is not in dispute that rent note was executed between the petitioner and the respondent on 20.03.2007. It is specifically mentioned in the petition that the rent as mentioned above was arrived at in favour of the respondent as well as his three other brothers, the respondent -Tarkeshwar as the owner. 1/4th of the rent is being received by Chet Ram and 3/4th by the

respondent as is mentioned in para 3 of the petition filed by the landlord (Annexure P1). Learned Rent Controller, in this situation, has rightly observed that the present petitioner has no concern with the dispute between the legal heirs of Banshidhar. It is relevant to note that the petitioner has duly accepted the respondent as his landlord. The Rent Note is indeed executed between two of them. It is a settled position that any of the co-owner can institute a suit in respect to the property. Inter-se dispute between the legal heirs of Banshidhar does not entitle the present petitioner with any kind of right to insist on their impleadment. The respondent is proved to be the landlord of the petitioner-tenant. Hon'ble Supreme Court in **K.D.Dewan v. Harbhajan S. Parihar, 2002(1) SCC 119** observed that the following persons fall within the meaning of landlord:-

- (i) any person for the time being entitled to receive rent in respect of any building or rented land;
- (ii) a trustee, guardian, receiver, executor or administrator for any other person;
- (iii) a tenant who sublets any building or rented land in the manner authorised under the Act;
- (iv) every person from time to time deriving title under a landlord.

In **M/s Jindal Auto Districtibutors and others v. Umesh Uppal, 2018(1) RCR(Rent) 246**, it has been held that a suit for eviction by a co-owner is maintainable. Moreover the Act, it is observed, deals with the rights and obligations of the landlord as defined therein and ownership of the premises is not material for the purposes of the Act. Respondent in this case is admitted to be the landlord as evident from the petitioner's stand regarding the rent note.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned orders dated 11.07.2018 passed by both the learned courts below which calls for interference by this Court in revisional jurisdiction.

Accordingly, both the petitions are dismissed.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petitions.

December 18 , 2018.
'om'

(LISA GILL)
JUDGE

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