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

**CR No.7521 of 2018
Date of Decision : 02.11.2018**

Jaspal Singh

.....Petitioner

Versus

Jasraj Pal Kaur and Others

.....Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Amardeep Singh Gill, Advocate
for the petitioner.

Mr. R.S.Bajaj, Advocate
for respondents.

AJAY TEWARI, J. (ORAL)

This revision has been filed against the order dated 25.09.2018 passed by Additional District Judge-cum-Appellate Authority, Jalandhar partly allowing an application for an amendment filed by the petitioner-tenant. The respondents had filed a petition for eviction on the ground that he had let out the premises to Jaspal Singh and Jaspal Singh had sublet the premises to Gurvinder Singh and ultimately Gurvinder Singh had sublet the premises to Yashpal Nagpal. One of the grounds of eviction at that time was that both Jaspal Singh and Gurvinder Singh were being represented by attorney Dr. Harmeet Pal Singh. When that attorney came to give evidence he informed the Court that he had lost the original power of attorney and thereafter an application for leading secondary evidence was filed. The Rent

Controller rejected that application but permitted the attorney to produce the two principals so that if they appeared and ratified his actions the attorney would be deemed to be subsisting.

Pursuant to that Gurvinder Singh appeared in Court and rectified the actions of the attorney but Jaspal Singh never appeared. Somehow this fact escaped the knowledge of the Rent Controller and the eviction petition was allowed (it may also be mentioned here that it was allowed not only on the ground of subletting but personal necessity also).

Thereafter, appeal was filed but in the appeal it was not disclosed that the appeal on behalf of Jaspal Singh and Gurvinder Singh was being filed by them in person. However, the power of attorney in the affidavit was signed by Dr. Harmeet Pal Singh. Later he realized this mistake and moved an application for amendment of the memo of appeal to incorporate the fact that the appeal had been filed through him by the power of attorney. By the impugned order the appellate authority has held that as regards Gurvinder Singh there was subsequent ratification but as regards Jaspal Singh there was no subsequent ratification, in so much neither fresh power of attorney was placed on record nor Jaspal Singh ever appeared and consequently declined the amendment of the memo of appeal to the extent that the appeal through Jaspal Singh was shown to be filed by the attorney.

In revision learned counsel for the petitioner had argued that once the trial Court had allowed the petition against Jaspal Singh through attorney and no objection was taken by the respondent, it was deemed that Dr. Harmeet Pal Singh was the attorney of Jaspal Singh. Contrary to this, learned counsel for the respondent has argued that if indeed it was the case of the petitioner that the attorney subsisted then there was no need for him

to file an application for amendment of the memo and the undisputed fact is that in terms of the order of the Rent Controller permitting Dr. Harmeet Pal Singh to continue subject to the conditions that Jaspal Singh would appear but Jaspal Singh never appeared.

In the circumstances, it has to be held that from there onward the appeal was being prosecuted by Dr. Harmeet Pal Singh without a valid power of attorney.

No fault can be found with the order of the Appellate Authority. Consequently, the appeal stands dismissed.

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

(AJAY TEWARI)
JUDGE

November 02, 2018

Sunil Devi

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