

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

245

CR No.8218 of 2016

Date of Decision:19.11.2018

SUNITA VOHRA

..... Petitioner.

V/S

JASWANT SINGH

..... Respondent.

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ravi Malhotra, Advocate for
Mr. Sushma Verma Syal, Advocate
for the petitioner.

Mr. Somnath Saini, Advocate
for the respondent.

LISA GILL J.(Oral)

Petitioner is aggrieved of order dated 03.08.2016, whereby application moved by the present petitioner for impleading her as party to the rent petition, has been dismissed.

Learned counsel for the petitioner submits that earlier, a petition under Section 13 of the East Punjab Urban Rent Restriction Act, was filed by the respondent-Jaswant Singh against the petitioner's husband-Satish Kumar Vohra. The present petitioner was permitted to be substituted in place of her husband in the said petition. Reference is made to order dated 21.05.2012 attached as Annexure P-3 with this petition. It is further submitted that the said petition under Section 13 of the Act was dismissed on 19.09.2013 by the learned Rent Controller, Rajpura. Appeal preferred by the respondent was dismissed in default on 13.07.2016.

During pendency of the abovesaid appeal, the respondent-landlord filed another petition under Section 13 of the Act on 03.09.2015 on similar grounds. It is submitted that when the petitioner came to know that another petition had been filed by the respondent-landlord, she immediately moved an

application for impleading her as party while bringing all the facts before the learned Rent Controller. Application filed by the petitioner was, however, dismissed vide impugned order dated 03.08.2016. It is submitted that Rent Controller, Rajpura, grossly erred in dismissing the application filed by the present petitioner. Husband of the petitioner has been missing since July 2008. Reference is made to DDR No. 13 dated 26.12.2018 in this respect.

Learned counsel for the petitioner further submits that it is the petitioner, who is running a tea shop in the demised premises. Moreover, she had been permitted to be substituted in the place of her husband in the earlier petition. It would thus be in the interest of justice to allow this petition and permit the petitioner to pursue the matter before the Rent Controller, as her husband is missing.

Learned counsel for the respondent while controverting the averments does not deny that in the earlier petition filed by the landlord, the petitioner was permitted to be substituted in the place of Satish Kumar. It is however, contended that order of dismissal of the appeal was recalled and the matter has since been heard on merits and is in-fact fixed for orders. It is further submitted that there is no relationship of landlord and tenant between the respondent and the petitioner. The premises in question were given to Satish Kumar, husband of the petitioner. Moreover, the petitioner filed a suit for declaration to the effect of her husband being missing and for declaring him dead on 29.09.2016 i.e. after filing of the present application. Therefore, this petition, it is prayed, be dismissed.

Heard learned counsel for the parties.

It is not in dispute that in the earlier proceedings initiated by the respondent-landlord under Section 13 of the Act, the petitioner was permitted to

be substituted in place of her husband-Satish Kumar, who is claimed to be tenant of the respondent. DDR No.13 stand registered at Police Post Bus Stand, Rajpura. Suit for declaration in this respect has been filed by the petitioner though admittedly instituted after filing of the application in question.

Keeping in view the facts and circumstances of the case, order dated 03.08.2016, is set aside. Petitioner is permitted to be impleaded as party to the petition and pursue the matter. Needless to say, the respondent is at liberty to raise all pleas available to him before the Ld. Trial Court including the objection in respect to the relationship of landlord and tenant.

Needless to say none of the observations made herein above shall have any bearing on the merits of the case pending before the Ld. Rent Controller and are confined for the purpose of decision of this petition.

Petition is accordingly disposed of.

(LISA GILL)
JUDGE

19.11.2018

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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No