

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

101

Date of Decision : 3.8.2018

**CM-9362-C-2010 in/and
RSA-4451-2003 (O&M) and**

M/s Ravi Club

...Appellant

VS

Mr. Ravi Prakash Jerath and others

...Respondents

101-A

**CM-20247-CII-2010 in/and
CR-4579-2003 (O&M)**

M/s Ravi Club

...Petitioner

VS

Mr. Ravi Prakash Jerath and others

...Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

**Present: Mr. P.K.Mutneja, Advocate
applicants/respondents.**

**Mr. Kulbhushan Sharma, Advocate
for the non- applicant/appellant/petitioner.**

AJAY TEWARI, J. (Oral)

**CM-9362-C-2010 in RSA-4451-2003
CM-20247-CII-2010 in CR-4579-2003**

The non-applicant-appellant on instructions states that possession has been delivered to the respondents-applicants in the execution.

In the circumstances, the present applications for recovery of

rent and mesne profit etc. are infructuous.

Dismissed as having been rendered infructuous.

Main Cases

These are two cases. One is regular second appeal and second is civil revision. The dispute relates to a double storey house in Faridabad which was let out to M/s Aravli Club.

The case of the respondents was that the ground floor of the house was built prior to the year 1989. In the year 1992, the respondents let out the same to the appellant-club. In the lease deed there was a covenant as per which the respondent was to provide extra space of 700 sq. feet for the purposes of the club. That extra space of 700 sq. feet was provided by the respondents on the first floor by making fresh construction. Thereafter, the respondents filed one petition for the eviction under Haryana Urban Rent Control Act in respect of the ground floor (on the ground of personal necessity) and with respect to the first floor he issued a notice under Section 105 Transfer of property Act on the ground that as regards the first floor the building was not 10 years old and consequently, the Rent legislation was not applicable.

Both the Courts below having ordered the eviction, the appellant has filed theses two cases.

The primary contention of the counsel for the tenant is that his was actually a single tenancy and was not a split tenancy and therefore, the only remedy available to the landlord was to have filed one petition under the Haryana Urban Rent Control Act. This is the seminal question in the present case which both the Courts below have answered against the

respondents. The reason why the Courts below have taken this view is that the tenant was paying the rent in the name of different landlords by different cheques. The Courts held that this was a pointer to the fact that it was not a single tenancy.

Apart from that learned counsel for the landlord has argued that as regards the personal necessity of the landlord no arguments have been addressed by the counsel for the tenant and it would be extremely harsh if now the landlord cannot get the benefit even of his accepted personal necessity on this technicalistic argument. I find myself in the agreement with the counsel for the landlord.

Moreover, the obstinacy of the tenant in not paying even admitted rent or mesne profit further disentitles it from claiming any relief.

Consequently, the appeal and revision both are dismissed.

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

**3.8.2018
anuradha**

**(AJAY TEWARI)
JUDGE**

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