

**In the High Court of Punjab and Haryana at Chandigarh**

**CR- 118 of 2016(O&M)**  
**Date of Decision:21.1.2019**

**Satpal (deceased) through LR**

**---Petitioner**

**vs.**

**Shambu Dayal**

**---Respondent**

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

**\*\*\***

**Present:** Ms. Salina Chalana, Advocate  
for the petitioner

**\*\*\***

**Rekha Mittal, J.**

**CM No. 1451-CII of 2019**

Heard.

Allowed as prayed for. Documents (Annexures P-1 to P-4) are  
taken on record, subject to just exceptions.

Disposed of accordingly.

**CR- 118 of 2016**

The present petition directs challenge against orders dated  
1.2.2011 passed by the Rent Controller, Pehowa and dated 10.9.2015 by the  
Appellate Authority, Kurukshetra whereby eviction petition filed by the  
petitioner on the ground of additions and alterations in the tenancy  
premises, has been dismissed.

Counsel for the petitioner would argue that though in the

eviction application, there is no reference as to what construction has been made by the respondent but Sh. Satpal (since deceased) now represented by his LR appeared in the witness box and deposed about construction of three rooms, one kitchen and a toilet by the respondent-tenant. It is further argued that even the respondent-tenant has not denied having raised construction but took the plea that construction was raised in the year 1973 with consent of his previous landlord who passed away in the year 1979. It is vehemently argued that as the respondent-tenant has not denied raising of construction in the tenanted premises but has failed to establish his plea that the same was with consent of the landlord who died in the year 1979, orders passed by the courts may be set aside and the eviction application is allowed.

I have heard counsel for the petitioner, perused the paper book and documents filed in response to order dated 17.7.2018 passed by this court, by filing CM No. 1451-C of 2019.

Perusal of eviction application (Annexure P1 Colly) makes it evident that Sh. Satpal son of Sh. Lachhman Dass filed application under Section 13 of the Haryana Urban (Control of Rent and Eviction), Act, 1973 on the ground that the respondent has not paid arrears of rent since death of Lajja Dass @ Sunder Dass on 21.11.1979 and the respondent has raised construction over the vacant land without consent of his landlord. In the eviction application, there is no reference to what construction has been raised by the respondent much less an averment that construction made by the tenant has impaired materially value or utility or both of the demised premises. Sh. Satpal in his testimony (Annexure P-3) had stated with regard

to construction of three rooms, one kitchen and a toilet but he did not depose that the additional construction has impaired value or utility of the tenancy premises.

Section 13 (2)(iii) of the Act, relevant in the present context, reads as follows:-

“13(1)        xxx        xxx        xxx

(2)A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the applicant, is satisfied-

(i) xxx        xxx        xx

(ii)        xxx        xxx

(iii)that the tenant has committed or caused to be committed such acts as are likely to impair materially the value or utility of the building or rented land, or xxxx xxx

The Controller may make an order directing the tenant to put the landlord in possession of the building or rented land and if the Controller is not so satisfied, he shall make an order rejecting the application.”

As the petitioner has not raised any averment with regard to nature and extent of construction raised by the respondent and has failed to adduce any evidence that the said construction has impaired value or/and utility of the premises in question, I do not find any material irregularity much less illegality in consistent findings recorded by the courts, warranting intervention in exercise of limited revisional jurisdiction.

In view of what has been discussed hereinabove, finding no

merit, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)  
Judge

21.1.2019  
paramjit

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