

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

250

CR-7792-2018

Date of Decision : September 11, 2019

RAJ KUMAR BUNDELA(SINCE DECEASED) THR LRS

.....Petitioners

VERSUS

**PANDIT SHEODUTT RAI BAJINIYA PARIWAR DARWAJA AND
ORS**

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Akshay Kumar Goel, Advocate for the petitioner.

Mr. Sudhanshu Makkar, Advocate for respondents No.1 & 2.

NIRMALJIT KAUR, J. (Oral)

The present revision is filed against the order dated 13.10.2018 passed by the Civil Judge (Jr. Divn), Bhiwani vide which the application filed by the plaintiff for setting aside the order dated 24.4.2012 whereby Raj Kumar Bundela, since deceased, was proceeded against exparte and the order dated 2.8.2013 whereby the application against the exparte order was allowed and the tenant was ordered to be evicted was dismissed. The said application was dismissed on the ground that the application should have been filed before the Rent Controller and not before the Civil Court whereas it is not disputed that it was only in the heading of the application that instead of mentioning 'Rent Controller' the name of the Court was mentioned as Civil Judge (Jr. Divn), Bhiwani and in the State of Haryana all the Civil Judges (Jr. Divn) have been vested with the powers of Rent Controller. Even the application for amendment of the title only to the said extent was moved which too was

dismissed although, it was stated that the same shall be taken up at the time of final hearing.

Learned counsel for the respondent-landlords while vehemently opposing submitted that they had taken the objection right in the very beginning but the petitioners took almost four years to file an application for amendment.

In view of the admitted fact that in the State of Haryana all the Civil Courts are also vested with the powers of Rent Controller, this Court finds that the said error could have easily been rectified as the same did not affect the merits of the case in any manner or change the nature of the case. There would have been no change even in the Court or the Presiding Officer after this amendment. There is another way to look at the whole situation. The dismissing of their application for amendment as well as the application under Order 9 Rules 7 and 13 CPC on this ground without going into the merits will not debar the petitioners from moving a fresh application under the same provisions by mentioning the designation of the Court as of Rent Controller except that it would only delay the matter for the respondent-landlords, which would not be in their interest.

Accordingly, taking into account the facts and circumstances of the case, the revision petition is allowed and the petitioners are allowed to amend the designation of the Court in the application under Order 9 Rules 7 and 13 CPC moved by the petitioners and thereafter the Court shall proceed further to decide the same on merits.

However, the above order is subject to the payment of Rs.20,000/- as costs to be paid to the respondent-landlords.

September 11, 2019
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(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No