

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

CR No.2003 of 2019 (O&M)

Date of decision: 26.03.2019

Joginder and others

...Petitioners

Versus

Madan Lal and another

...Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present : Mr. Sudhir Aggarwal, Advocate  
for the petitioners.

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**REKHA MITTAL, J. (Oral)**

Challenge in the present petition has been directed against order dated 21.02.2019 passed by the Rent Controller, Pataudi whereby applications under Order 1 Rule 10 read with Section 151 CPC for impleading Yogeshwar etc. and Joginder etc. on the array of respondents were dismissed.

Madan Lal respondent filed application for eviction under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 against Prem Chand son of late Shri Ram, erstwhile tenant in the shop in question. The two applications were filed for impleading Yogeshwar etc. and Joginder etc. as a party on the premise that Shri Ram died in the year 1987 leaving behind the applicants as his successors-in-interest, therefore, entitle to inherit tenancy rights in respect of the shop in question. The Rent Controller dismissed the applications by relying upon judgment of Hon'ble

the Supreme Court **Suresh Kumar Kohli Vs. Rakesh Jain and another, 2018(3) CCC 769** and judgment of this Court **Pushpa and another Vs. Gurbax Singh and another, 2008(2) LAR 626** and held that legal heirs shall be deemed to succeed Shri Ram as joint tenant and not tenant in common and one of the legal heirs of Shri Ram namely Prem Chand (son of Shri Ram) who is doing business in the shop in question has been impleaded on the array of respondent whereas other brothers of Prem Chand are doing their business separately.

Counsel for the petitioners would argue that daughters of Shri Ram may not be impleaded as a party but sons and successors-in -interest of sons of Shri Ram (since deceased) are entitle to be impleaded as a party on the array of respondents so that they should have an opportunity of being heard in the eviction proceedings. It is further argued that in **Suresh Kumar Kohli's case (supra)**, Rakesh Jain son of Ishwar Chand Jain (since deceased) filed objection to execution claiming to be necessary party having inherited family business after death of father and was unaware of pendency of eviction proceedings. It is argued that since Rakesh Jain sought to stall the execution proceeding by filing an application before the Executing Court, the same was dismissed but in the present case petitioners have filed application during pendency of the eviction proceedings.

Before advertng to the submissions made by counsel for the petitioners and the judgment in **Suresh Kumar Kohli's case (supra)**, it is

pertinent to mention at the outset that perusal of the application(s) would reveal that it is none of the plea of applicants (petitioners herein) that they are in possession of the shop in question after death of Shri Ram or Prem Chand impleaded as respondent in the eviction proceedings is not in possession of the same.

Hon'ble the Supreme Court in **Suresh Kumar Kohli's case (supra)** has held, quoted thus:-

We are of the view that in the light of H.C. Pandey (supra), the situation is very clear that when original tenant dies, the legal heirs inherit the tenancy as joint tenants and occupation of one of the tenants is occupation of all the joint tenants. It is not necessary for landlord to implead all legal heirs of the deceased tenant, whether they are occupying the property or not. It is sufficient for the landlord to implead either of those persons who are occupying the property, as party. There may be a case where landlord is not aware of all the legal heirs of deceased tenant and impleading only those heirs who are in occupation of the property is sufficient for the purpose of filing of eviction petition. An eviction petition against one of the joint tenants is sufficient against all the joint tenants and all joint tenants are bound by the order of the Rent Controller as joint tenancy is one tenancy and is not a tenancy split into different legal heirs. Thus, the plea of the tenants on this count must fail.

In view of enunciation extracted hereinbefore laid down in **Suresh Kumar Kohli's case (supra)**, it is difficult to accept contention of the petitioners that the order impugned suffer from an error much less perversity that would call for intervention in exercise of jurisdiction under

Article 227 of the Constitution of India.

In view of what has been discussed hereinbefore, finding no merit, the petition fails and is accordingly dismissed in limine.

26.03.2019

ashok

(REKHA MITTAL)  
JUDGE

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