

In the High Court of Punjab and Haryana at Chandigarh

CR No. 2544 of 2019(O&M)

Date of Decision:9.5.2019

Lalita Devi Thapen

---Petitioner

vs.

Subhash Jindal and another

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Nitish Kumar Vasudeva, Advocate
for the petitioner

Rekha Mittal, J.

CM No. 9646 CII of 2019

Heard.

Allowed as prayed for. Annexures P-2 and P-3 are taken on record, subject to just exceptions.

Disposed of accordingly.

Main case

The present petition directs challenge against order dated 16.1.2019 passed by the Rent Controller, Chandigarh whereby application under Order 1 Rule 10 (1) of the Code of Civil Procedure (in short “the Code”) for impleading the applicant-petitioner as a co-petitioner in the eviction petition titled “Ajay Grover vs. Subhash Jindal”, has been

dismissed.

Counsel for the petitioner would argue that the petitioner was co-sharer to the extent of 50% in plot No. 10, Industrial Area, Phase-I Chandigarh. There are allegations that the petitioner has entered into an agreement of sale in respect of her share but no sale deed in this regard has been executed. It is further argued that as the petitioner is the landlady/co-sharer in the property in question in respect whereof Ajay Grover-respondent No.2 has filed eviction application under Section 13 of the East Punjab Urban Rent Restriction Act seeking ejectment of respondent No. 1, the petitioner is entitled to be impleaded as a co-eviction petitioner for complete and effective adjudication of the matter in controversy.

Counsel would urge that this court in **Gyan Aggarwal vs. Brij Bhushan Salwan, Civil Revision No. 11649 of 2018 decided on 6.3.2019** has set aside the eviction order passed by the Rent Controller and affirmed by the appellate authority on the premise that co-owner/landlord namely Bharat Bhushan Salwan brother of Brij Bhushan Salwan had not been impleaded as a party in the eviction application even though application filed by said Bharat Bhushan Salwan under Order 1 Rule 10 of the Code for impleadment as a party was dismissed by the Rent Controller and order of dismissal of application has attained finality.

I have heard counsel for the petitioner, perused the paper book particularly the application under Order 1 Rule 10 of the Code, reply thereto and the order impugned.

There is no dispute about the settled position in law that eviction petitioner is the dominus litis and he cannot be forced to implead

additional party particularly on the array of applicant as has been prayed for by the petitioner.

Perusal of averments made in the application for impleadment (Annexure P2) would reveal that the petitioner has already filed eviction application which was dismissed in default and proceedings for its restoration are pending before the Rent Controller meaning thereby that the petitioner has already availed her remedy to seek eviction by claiming herself to be landlady of the property in question.

Counsel for the petitioner has relied upon **Gyan Aggarwal's case (supra)** to assert her claim for impleadment. If respondent No. 2 Ajay Grover fails in his effort to seek eviction of Subhash Jindal on the premise that the present petitioner has not been impleaded as a party, the same may be of adverse consequence for Ajay Grover and not for the petitioner when otherwise Ajay Grover has opposed prayer of the petitioner for impleadment. Analyzed from any angle, I do not find any reason to interfere in the impugned order in exercise of extraordinary jurisdiction under Article 227 of the Constitution of India.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

9.5.2019
paramjit

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