IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 3112 of 2019 (O&M)
Date of decision : May 14, 2019

Rajwinder Kaur .....Petitioner

Versus

Malkit Singh and others ....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Rakesh Kumar, Advocate
for the petitioner.

***

LISA GILL, J.

This petition has been filed seeking quashing of order 31.05.2018 (Annexure P-5) passed by learned Additional Civil Judge (Senior Division), Sultanpur Lodhi whereby application Order 21 Rule 2 CPC filed by the present petitioner stands dismissed as well as order dated 07.03.2019 (Annexure P-6) passed by the learned Appellate Authority, upholding the said order.

Brief facts necessary for the adjudication of the case are that petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 was filed by respondent No. 1, Malkit Singh seeking eviction of the tenants i.e. respondents No. 2 to 5 (sons and brother-in-law of the present petitioner) from the shop in question. It is to be noted at this stage that the shop in dispute was claimed to be rented out to respondent – Jaswinder Singh and his brother Karamjit Singh @ Paramjit Singh (since deceased). Karamjit Singh @ Paramjit Singh is the husband of the present petitioner. After the death of Karamjit Singh, respondents No. 3 and 4 i.e. his sons inherited the estate as well as tenancy rights of the deceased, therefore, were arrayed as the co-tenants. The said petition was contested by respondents

RITU SHARMA
2019.05.21 12:43
I attest to the accuracy and
authenticity of this document
Chandigarh

No. 3 and 4, who are admittedly the sons of the petitioner. Learned Rent Controller vide order dated 25.05.2016 (Annexure P-1) directed eviction of the said respondents from the demised premises. No appeal was preferred by the respondents though objections (Annexure P-2) were filed by the son of the petitioner and thereafter by the petitioner as well. Objections filed by the petitioner's son were dismissed on 16.08.2017.

Learned counsel for the petitioner submits that it is the present petitioner, who was in possession of the demised premises but she was deliberately not impleaded as a party to the petition. The petition could, thus, not be contested properly. Order dated 25.05.2016, it is claimed, was obtained fraudulently as her son Jasdeep Singh, (stared to be wrongly mentioned as Jasjeet Singh) was suffering from mental infirmity and was unable to take care of his interest. Her other son Jaskaranjit Singh was wrongly mentioned as Jaskaramjit Singh. Moreover, her brother-in-law Jaswinder Singh son of Thakur Singh was not seriously contesting the petition as he was not in possession of the premises. Therefore, the petitioner did not get proper opportunity to contest the matter. Learned Executing Court vide impugned order dated 31.05.2018 has wrongly dismissed the objections filed by Rajwinder Kaur while holding that the entire facts were well within the knowledge of the petitioner. Learned Appellate Authority has also erred in dismissing her appeal vide order dated 07.03.2019 (Annexure P-6). It is, thus, prayed that this petition be allowed and impugned orders dated 31.05.2018 and 07.03.2019 be set aside.

I have heard learned counsel for the petitioner.

I do not find any merit whatsoever in the present petition. It is a matter of record that the rent petition filed by the respondent – landlord

RITU SHARMA
2019.05.21 12:43
I attest to the accuracy and
authenticity of this document
Chandigarh

was duly contested by both the sons of the present petitioner. Written statement was filed by them, wherein they have taken a definite plea that after the death of Karamjit Singh @ Paramjit Singh, they were in possession of premises in dispute and have been tendering rent to the petitioner. There is not even a whisper to the effect their mother was in possession of the demised premises and that they have no concern with the tenancy in question. It is relevant to note at this stage, that the petitioner's son Jasdeep Singh stated to be wrongly mentioned as Jasjeet Singh has duly contested the petition. He has appointed a lawyer, who has duly represented him in the proceedings. It is further to be noted at this stage, that an application for deposit of rent was also moved by the legal representative of Karamjit Singh @ Paramjit Singh i.e. the petitioner's son. Objections filed by Jasjeet Singh stood dismissed on 16.08.2017. Date of objection petition (Annexure P-2) is not mentioned in the copy attached with this petition, neither is learned counsel for the petitioner able to reveal the same. Moreover, there is nothing on record to show that Jasjeet Singh/Jasdeep Singh was suffering from any mental infirmity as alleged.

Another argument raised by learned counsel for the petitioner that the petitioner's son Jaskaranjit Singh (stated to be wrongly mentioned as Jaskaramjit Singh) had left India, therefore, it is not possible that he pursued the matter, is devoid of any merit. Rent petition was filed on 18.07.2014. Even as per the averments in the objection petition, Jaskaran Singh left India on 27.11.2014 and there is nothing on record to show that he never returned to India in the interregnum. Factum of filing of written statement by the petitioner's sons and they being represented by counsel is sought to be explained by stating that their signatures may have been taken

RITU SHARMA
2019.05.21 12:43
I attest to the accuracy and
authenticity of this document
Chandigarh

by the petitioner's brother-in-law. Such is clearly not even the stand of the petitioner in the objection petition and is clearly reflective of lack of bonafides on her part.

Both the learned courts below have rightly observed that the said objections have been filed with a malafide intention only with a view to delay the execution proceedings. Present is in fact a case, which calls for imposition of costs. However due to fervent request on behalf of learned counsel for the petitioner, cost is not being imposed.

Learned counsel for the petitioner is unable to point out any illegality, infirmity, perversity or error of law in the impugned order dated 31.05.2018 (Annexure P-5) passed by learned Additional Civil Judge (Senior Division), Sultanpur Lodhi, which calls for interference in exercise of revisional jurisdiction by this Court. The same is upheld.

Present petition is, accordingly, dismissed.

(Lisa Gill)
Judge

May 14, 2019
rts

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

RITU SHARMA
2019.05.21 12:43
I attest to the accuracy and
authenticity of this document
Chandigarh