

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

CR No. 5805 of 2017

Date of Decision: 8.1.2020

Sunder Singh

...Petitioner

Vs.

Krishna Sharma and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Kartik Gupta, Advocate
for the petitioners.

Mr. Sanjay Vij, Advocate
for respondent No.1.

RAJIV NARAIN RAINA, J. (Oral)

1. Mr. Sanjay Vij, learned counsel appearing for the respondent says that the matter has been rendered infructuous as the present revision arising out of the order under Order 15 Rule 5 CPC has lost its sting in view of the supervening events of the property coming within the jurisdiction of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (for short 'the Rent Act'). The landlord has already secured the eviction of the respondent under the Rent Act which has since been executed as well. Therefore, learned counsel prays that the petition be dismissed as infructuous.

2. Striking off defence under Order 15 Rule 5 CPC may arise in a subsisting claim in appeal but the disputed property which was subject matter of the suit for eviction under the general law became part of the urban area of Municipal Committee, Gurgaon as the property

falls within Sector 43, Gurgaon. Taking aid of this, territorial change and jurisdiction being conferred on the Rent Controller, the landlord had filed an eviction petition against the present respondent under the Rent Act and has secured an eviction order which has attained finality till this Court in Civil Revision No. 2280 of 2019.

3. Moreover, it is not disputed that the petitioner purchased the suit property from the plaintiffs during the pendency of the suit vide sale deed dated 30.1.2013 filed by the original owners in 2008 (Annex. P-6). In that suit also an application under Order 15 Rule 5 was filed and payment was made to the tune of Rs. 2,00,000/- which fact is also available on record. There is no assignment of arrears of rent, in the sale deed and even the grounds of revision do not talk of that. There appears to be no recital in the sale deed assigning any actionable claim to the buyer in ground No.7 of the revision.

4. As the petitioner had peacefully obtained an eviction order against the respondent in an eviction petition filed under the Rent Act which order has since been executed as well, nothing remains any further to be decided and adjudicated upon in this petition by this Court. In view of the above, the petition has been rendered infructuous. Accordingly, the petition is dismissed as such.

(RAJIV NARAIN RAINA)
JUDGE

8.1.2020

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Whether speaking/reasoned
Whether reportable

: *Yes/No*
: *Yes/No*