

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-1479-2020(O&M)

Date of decision: 12.05.2020

Rajesh Kumar @ Murli

.....Petitioner

Versus

Mohan Lal and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Ms. Aashna Gill, Advocate for the petitioner

**ANIL KSHETARPAL, J.**

This revision petition has been filed under Article 227 of the Constitution of India assailing correctness of the order passed by the Appellate Authority, Patiala constituted under the Rent Act while dismissing application filed by the petitioner for impleading the petitioner as necessary party in the pending appeal. Some facts are required to be noticed. Landlord filed rent petition seeking ejectment of the tenant i.e M/s Janta Cloth Store through its partner Ramesh Chand. Before the Rent Controller M/s Janta Cloth Store took a stand that they had surrendered possession of the shop in question to the then landlord in March, 1997. Thereafter, Ramesh Chand, the alleged partner who suffered paralysis and the firm does not continue to be in possession as a tenant. Learned Rent Controller on appreciation of evidence, passed an order of ejectment dated 21.5.2019 against which an appeal was filed by M/s Janta Cloth Store through its partner Ramesh Chand.

During the pendency of the appeal, the petitioner Rajesh

Kumar @ Murli son of Ramesh Chand filed an application for impleading as party claiming that he is in possession of the tenanted property. The application was contested by the landlord. Learned Appellate Authority on appreciation of the record dismissed the application.

This Court has heard learned counsel for the petitioner and with her able assistance gone through the paper book. Learned counsel for the petitioner while referring to receipts dated 21.9.2000 and 27.9.1997 has submitted that it is the petitioner who is in possession of the property as a tenant and therefore, the Appellate Authority has committed an error in dismissing the application. She relied upon judgments in Devinder Singh Qaumi vs. Kulwant Singh Nijjar and another 2016 (1) RCR (Rent) 613 and in Jaimal Singh vs. Ashok Kumar 2017(1) RCR (Civil) 372.

This Court has considered the submissions, however, find no substance therein. It may be noted here that Ramesh Chand father of the petitioner did not appear in evidence when the eviction petition was pending before the Rent Controller. Another brother of the petitioner – Mukesh Kumar appeared in evidence claiming himself to be special attorney of Sh. Ramesh Chand. He has stated that the shop was in possession of the firm upto 1997 and thereafter, it was vacated. He even stated that he does not know Murli. Murli is the petitioner-applicant being Rajesh Kumar @ Murli. Still further, on careful perusal of the rent receipts relied upon by the learned counsel for the petitioner, it may be noted that these rent receipts do not prima facie prove that the petitioner-

Rajesh Kumar @ Murli is a tenant in possession of the shop in question. Learned Rent Controller has already examined rent note dated 25.3.1986 executed by Ramesh Chand, father of the petitioner as partner of M/s Janta Cloth Store, Samana.

Still further, it has been noticed that the family of Ramesh Chand has been playing hide and seek with the Court. The petitioner never filed application for impleadment of party before the Rent Controller. Now when execution petition for taking over possession is pending before the Executing Court, the application has been filed by the petitioner.

Further, this Court has carefully read the judgment in Devinder Singh Qaumi's case (supra). The Court was examining correctness of an order passed by the Rent Controller on 11.12.2015 declining to implead petitioner as party respondent in the eviction petition. In the aforesaid case, the petitioner before this Court had taken a plea that he alongwith his deceased brother had jointly taken the house on rent. The proceedings were pending before the Rent Controller. The learned Court in the facts of the case permitted the petitioner to be impleaded as party while directing the Rent Controller to conclude the trial within a period of 6 months. With highest respect, the aforesaid judgment does not as a ratio decidendi lays down that the application for being impleadment in the eviction proceedings by any one should be allowed.

Next judgment relied upon by the learned counsel for the petitioner is in the case of Jaimal Singh's (supra). In this case, the

allegations were that the tenant has sublet the rented premises to Ram Kumar. An application was filed to implead Ram Kumar as party-respondent which was dismissed. On reading of the order it appears that the landlord had filed the application for impleadment. The aforesaid application was dismissed by the Rent Controller. This Court allowed the revision petition. In the considered view of this Court, aforesaid judgment also does not help the petitioner.

Keeping in view the aforesaid discussion, this Court does not find any good ground to interfere with the detailed order passed by the Appellate Authority. Accordingly, the revision petition is dismissed.

**12.05.2020**

rekha

Whether speaking/reasoned

Whether Reportable

**(ANIL KSHETARPAL)****JUDGE**

Yes / No

Yes / No