

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.3701 of 2019(O&M)

Date of Decision:03.03.2020

Prithvi Pal Singh through legal representative

.....Petitioner

Versus

Prakashwati through legal representatives and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr.K.B.Raheja, Advocate
for the petitioner.

Mr. Vaibhav Sharma, Advocate
for respondent no.1.

LISA GILL, J.

Petitioner, who is arrayed as a respondent in a petition under Section 13 of the East Punjab Urban Rent Restriction Act (for short 'Act'), filed by respondents no.1 and 2, has filed this revision petition being aggrieved of order dated 30.04.2019 (Annexure P-7), passed by the learned Civil Judge (Junior Division), Amritsar.

Petitioner's application, seeking stay of proceedings before the learned Rent Controller, pending decision in the civil suit filed by the present petitioner, was dismissed by the learned Rent Controller, vide impugned order dated 30.04.2019.

Aggrieved therefrom, present revision petition has been filed by the petitioner.

Learned counsel for the petitioner submits that Prakashwati (now represented by her legal heirs), had filed the ejectment petition against Prithvi Pal Singh and Tej Bhan i.e., her own sons as well as the firm M/s Pardeep Kumar, Satish Kumar, being run by both of them. After the death of Prakashwati, the present petitioners have also become co-sharers in the property. It is further submitted that the will upon which the respondents rely upon for claiming title to the property in question, is a forged document. Therefore, in this view of the matter, proceedings before the learned Rent Controller, should be stayed to await the decision of the learned Civil Court, which shall conclusively decide the title. It is argued that the petitioner has filed a civil suit titled 'Pardeep Kumar Vs. Surinder Kumar and others', which is pending adjudication and the learned trial Court therein, has directed the parties to the *lis* to maintain *status quo* regarding alienation of the suit property. It is argued that the question regarding title of the suit property, is yet to be decided by the learned Civil Court. Therefore, eviction proceedings, should be stayed by the learned Rent Controller to await the decision of the Civil Court. Learned counsel for the petitioner relies upon the judgement titled **Prithi Raj Vs. Hans Raj, 1969 PLR 177**, to submit that the learned Rent Controller, is not entitled to decide the question of title of the parties to the petition. The same has to be settled by the Civil Court. It is thus prayed that the present petition be allowed.

Per contra, learned counsel for respondent no.1, while refuting the abovesaid arguments submits that the respondents have been duly impleaded as the legal representatives of Prakashwati. Order of impleading legal representatives of Prakashwati, is attached as Annexure P-1, with this

petition. Furthermore, the question of title is not relevant to the controversy in hand, which has to be decided by the learned Rent Controller. Learned counsel for respondent no.1, argues that the learned Rent Controller, is merely to decide upon the question of existence of the relationship of landlord and tenant between the parties. He relies upon the judgement of the Hon'ble Supreme Court in **S.Thangappan Vs. P.Padmavathy, AIR 1999 SC 3584** and decision of this High Court in **Dewan Chand Vs. Sh. Darshan Lal and others (1994) 107 (2) PLR 484**. It is submitted that the petitioners in-fact have tried their level best to delay the proceedings before the learned Rent Controller by filing one or the other application. Learned counsel refers to the decision dated 29.10.2019, in CR No. 6163 of 2019, filed by the present petitioners, wherein, the learned Rent Controller, has been directed to make an endeavour to conclude the matter as expeditiously as possible. It is thus prayed that this petition be dismissed.

I have heard learned counsel for the parties and have gone through the file with their assistance.

It is to be noted, at this stage, that the petitioner is the son of Prithvi Pal Singh son of Des Raj and grandson of Prakashwati w/o Des Raj, both of whom died during the pendency of the ejectment petition. There is no dispute regarding this relationship between the parties. Petition under Section 13 of the Act, had been filed by Prakashwati and another on the grounds of subletting and nonpayment of rent. The present petitioner, is alleged to be a tenant. He seeks stay of proceedings before the learned Rent Controller, on the ground of pendency of the civil suit filed by the him in respect to the title of the property. It is pertinent to note that the said civil

suit is reflected to have been filed on 25.01.2019. Learned Civil Judge (Jr. Division), Amritsar, in the said suit, directed *status quo* regarding alienation of the suit property to be maintained vide order dated 28.01.2019. Petitioner has filed the civil suit for declaration to the effect that will dated 22.10.1974, allegedly executed by Prakashwati in favour of Surinder Kumar and Rakesh Kumar, sons of Des Raj, is illegal, null and void. Petitioner has claimed himself to be the owner of the premises i.e. the shop bearing no. 905/6/1077/6 as well as house to the extent of 2/ 3rd share.

Learned counsel for the petitioner is unable to deny that Civil Revision No. 6163 of 2019, filed by him, was decided on 29.10.2019, with a specific and clear observation that the petitioner would not be permitted any further adjournments in the said matter considering the fact that the ejectment application was pending since 1987. Prithvi Pal Singh, the petitioner's father had died a number of years ago and his legal representatives were impleaded in the year 2006.

There is no doubt that the learned Rent Controller, has no jurisdiction to adjudicate upon the title of the property in question. Learned Rent Controller, is only to conclude about the existence or otherwise of the relationship of landlord and tenant between the parties. The question of title, if disputed, at best can incidentally be looked into, only with a view to decide the primary question of relationship between landlord and tenant. This High Court in **Dewan Chand's case (Supra)**, has observed as under:-

“10. A reading of the order under revision clearly goes to show that the Rent Controller refused to determine the question, whether there existed a relationship of landlord and tenant between the parties, only by observing that the question of title

be first got decided from the civil court. In my view, the Rent Controller acted illegally and with material irregularity in directing the parties to get the question of title decided first from the civil court. It was for the Rent Controller to examine the relevant evidence produced and record a finding, whether there existed a relationship of landlord and tenant between the parties. If he had come to the conclusion that there existed relationship of landlord and tenant between the parties, he was to dispose of the eviction petition according to law by recording a finding whether there existed a ground for ordering eviction of the tenant or not. If, however, he had found that there did not exist such relationship, it was end of the matter and the eviction petition was bound to fail on that ground alone leaving it open to the parties to agitate the matter in appeal or revision and or get their title decided from the Civil Court. But the Rent Controller could not direct the parties to first get their title decided from the Civil Court and postpone the decision of the eviction petition till it was so done.”

Learned Rent Controller, has thus proceeded correctly in passing order dated 30.04.2019. It is further rightly observed that, in case, the suit filed by the petitioner is ultimately decreed, the present petitioner can recover possession of the property falling to his share and as such there would be no prejudice to any of the parties and that the interest of the petitioner as a tenant cannot merge with his interest as a landlord.

Learned counsel for the petitioners is unable to point out any illegality, infirmity or perversity in the impugned order dated 30.04.2019, passed by the learned Civil Judge (Jr. Division), Amritsar, which calls for interference by this Court in exercise of revisional jurisdiction.

No other argument was raised.

Petition is accordingly dismissed with no order as to cost. No

orders need to be passed in any other pending application in view of the dismissal of the revision petition.

03.03.2020
s.khan

[LISA GILL]
Judge

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