

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CR-1770-2021 (O&M)
Date of decision:14.09.2021**

Tejinder Singh @ Tejendra Singh

...Petitioner

Versus

Manmeet Singh & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.K.S.Dhillon, Advocate, for the applicant-petitioner.

(The proceedings are being conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

CM-8477-C II-2021

Application for placing on record documents as Annexures P-6 to P-9 and exception from filing certified copy of the same, is allowed, in view of the averments made in the application, duly supported by affidavit. Said documents are taken on record, subject to just exceptions. Office to append the same at appropriate place.

CM stands disposed of.

CR-1770-2021 (O&M)

Challenge in the present revision petition, filed under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949 (for short, the 'Act') is to the order dated 28.07.2021, passed by the Rent Controller, Ludhiana whereby the application for impleadment as party to the rent petition was dismissed by imposing costs of Rs.5000/-, to be deposited in the Free Legal Aid.

Counsel has vehemently submitted that as per the rent note dated

19.11.1993 which has now been placed on record as Annexure P-5, petitioner

was also a partner in M/s Kabir Stationers-respondent No.2 herein. It is submitted that the eviction petition has been filed against the said firm through partner-Narinderjit Singh, who is none other but the brother of the petitioner. It is, accordingly, submitted while placing reliance upon the judgments of the Apex Court in **M/s Chhotelal Pyarelal Vs. Shikharchand 1984 AIR (SC) 1570** and **Richard Lee Vs. Girish Soni & another 2017 (3) SCC 194**, that the firm had to be sued through the partners and that in order to completely and effectively adjudicate upon the controversy in dispute, all the partners were required.

After hearing counsel for the petitioners at length, this Court is of the opinion that the order passed by the Rent Controller is well reasoned and the attempt to get the petitioner impleaded, is only a mala fide act on the part of the family members to delay the proceedings of the rent petition which was filed wayback on 15.05.2015. A perusal of para No.4 of the rent petition would go on to show that the landlords had very clearly stated that the brother of the petitioner-Narinderjit Singh was the tenant in the premises and Tejinder Singh, the present petitioner, had lost interest in the property. The eviction petition has, thus, been filed on the ground of non-payment of rent and on account of personal necessity.

The defence of the brother-respondent No.2 therein, in the reply dated 05.10.2015 (Annexure P-6) was silent and there was an admission of the said facts by taking the plea that he was occupying the demised premises as a tenant under the original surviving landlord Tejinder Singh (namesake of the present petitioner) and no objection was raised, at that point of time, by the brother regarding the fact that the firm had not been sued through all its

partners.

The first attempt to prolong the proceedings was taken by filing an application under Order 6 Rule 17 CPC for amendment of the written statement by the brother on the ground that Tejinder Singh, the present petitioner was a necessary party, while placing reliance upon the judgment in M/s Chotelal Pyarelal (supra). The same was opposed by the landlord on the ground that even the Apex Court had said that the firm can be sued on its own name and the fact that admission had been made in para No.4 of the petition that Tejinder Singh had no right or title. It was also noticed that applications were being filed one after the other to get the matter deferred and costs were being imposed and even the application for amendment was filed after lapse of 3 years from the filing of the original written statement. Resultantly, the said application had been dismissed with costs of Rs.10,000/- on 15.12.2018 (Annexure P-8).

It is also to be noticed that the issues had already been framed on 16.02.2016 (Annexure P-7) regarding the controversy inter se the parties. The order rejecting the amendment was challenged by the firm itself in CR-494-2019, which was dismissed on 12.03.2019 (Annexure P-9) by this Court though in default. Resultantly, the said order had become final.

The reasoning given in the impugned order is also justified to the extent that the application has been filed with the active connivance of the brother for delaying the proceedings and the firm can be sued in its own name. It is, thus, apparent that the petitioner being a close relative of the partner who is already representing the partnership firm has sought to reagitate the issue for the purposes best known to him, which is apparent on

the face of the record since the case has now reached the stage of evidence of the respondents.

The judgments relied upon are not applicable to the present case, since in M/s Chotelal Pyarelal (supra) only the firm had been impleaded as respondent and therefore, the Apex Court had held that the partners have to be impleaded as co-nominees in a proceedings under the Act. In the present case, as noticed, the brother of the petitioner is already representing as a partner and the firm is duly represented through one of its partners.

Similarly, in the case of M/s Richard Lee (supra) the case before the Apex Court was that there was a dispute qua a firm which was being run by the partner all of whom were brothers who had all died. It was, in such circumstances, the Apex Court held that the son and other partners would be impleaded so that the presence of the proper parties would facilitate the complete determination of the matter in dispute.

In the present case, there is no such issue and the basic principle is that the landlord is the *Dominus Litis* and if he chooses not to implead the petitioner in his wisdom, he cannot be forced to litigate against a person who he does not wish to implead and seek no relief against.

In such circumstances, this Court is of the opinion that the order passed by the Rent Controller, Ludhiana dated 28.07.2021 is justified and the same would require no interference by this Court. Resultantly, the present revision petition is dismissed in limine.

September 14, 2021
sailesh

(G.S.Sandhawalia)
Judge

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No