

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

CR-2032-2018 (O&M)

Date of decision: 07.07.2022

Jaswinder Singh

....Petitioner

Versus

Ashwani Kumar and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rahul Rampal, Advocate for the petitioner

ANIL KSHETARPAL, J (Oral)

As per the office report, the notice issued to respondent no.1 has been received back served through his trial court counsel whereas the notice issued to respondent no.2 has been received back unserved as the Advocates were on a mass strike. It is evident that respondent no.1 is the only contesting respondent. Despite the service of notice, he remains unrepresented.

The property in dispute is a house bearing No. 3860 measuring 110 square yards located in Village Mundian Kalan, Tehsil and District Ludhiana. Nirmal Singh was its owner. He entered into an agreement to sell with the petitioner (Jaswinder Singh) on 20th November, 2009. On failure of Nirmal Singh to honour the agreement Jaswinder Singh filed a suit for possession by way of specific performance of the agreement to sell, which was decreed by the court vide judgement and decree dated 21st April, 2016. It has been stated that the sale deed pursuant to the aforesaid decree has been executed in favour the petitioner on 2nd December, 2016. In order to avoid the

execution of the decree qua possession, one Ashwini Kumar son of Kewal Singh, filed a suit for grant of permanent injunction against Nirmal Singh in the year 2017. He claims to be a tenant on the property in question under Nirmal Singh. Pending the aforesaid suit, an application filed by the petitioner (Jaswinder Singh) has been dismissed by the trial court on the ground that the plaintiff is *dominus litis*, therefore, the petitioner cannot be impleaded as party against the wishes of the plaintiff.

Heard learned counsel representing the petitioner at length and with his able assistance perused the paper book. Undoubtedly, there is a doctrine of *dominus litis*, however the same is not universally applicable. There are certain exceptions to the aforesaid doctrine. The facts of present case clearly prove that the petitioner has a reasonable apprehension. As per the sale deed executed in his favour, the petitioner is owner of the property. Someone is claiming tenancy rights over the same. The petitioner has a right to be heard before deciding any such claim.

Hence, the order dated 19th January, 2018 is set aside. The application filed by the petitioner shall stand allowed.

With all these observations, the revision petition is allowed.

All the pending miscellaneous applications, if any, are also disposed of.

07.07.2022

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)

JUDGE