

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

114

**CR-1918-2022 (O&M)
Date of decision: 26.08.2022**

Shila Devi

.....Petitioner

Versus

Ram Datt @ Ramdeta

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gaurav Datta, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside of the order dated 22.11.2021 (Annexure P-9) passed by the Rent Controller, Amloh whereby application filed by the petitioner under Section 10 read with Section 151 of the Civil Procedure Code, 1908 (for short, 'the Code') for staying the proceedings in a rent petition was dismissed.

Learned counsel *inter alia* contends that the impugned order is perverse being contrary to the settled principles of law. He submits that the learned Rent Controller failed to appreciate that the eviction petition had been filed during the pendency of an appeal preferred by the petitioner qua the title dispute pertaining to the demised premises. He submits that the matter in issue in the previously instituted suit for declaration as well as in the instant eviction petition is the same and thus learned Rent Controller should have stayed the trial of the eviction petition filed under Section 13 of the Punjab Urban Rent Restriction Act, 1949 (for short, 'the Act'). He still further submits that late Smt. Ram Kaur had executed a registered Will No.39 dated 01.06.2006 in favour of the petitioner and son of the respondent namely

Shivam, hence, the eviction petition against the petitioner was not maintainable.

I have heard learned counsel and perused the relevant material on record.

It would be relevant to observe here that the trial of a subsequent suit can be stayed only when the matter in issue involved therein is directly and substantially the same to the suit which was instituted prior in time and between the same parties. In the case in hand, learned Rent Controller is not supposed to decide question of title rather it has to limit its enquiry only qua the existence of relationship of landlord-tenant between the parties, and further as to whether a case for ejectment of the tenant is made out or not. Thus, it cannot be said that the matter in issue is directly and substantially identical to the one in the previously instituted civil suit.

Furthermore, the proceedings before the Rent Controller are in the nature of an enquiry and not a trial, hence, Section 10 of the Code would not be attracted. It would also be pertinent to observe that the decision of the Civil Court in the title suit would not operate as *res-judicata* in the instant petition which has been filed under Section 13 of the Act.

As a sequel to the above, the instant petition being devoid of merit is dismissed.

26.08.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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