

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

124

CR-2210-2022 (O&M)
Date of decision: 13.09.2022

RAVINDER KAUR

....Petitioner

Versus

PRABHJOT PAUL SINGH AND ANR

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rakesh Gupta, Advocate
for the petitioner.

MANJARI NEHRU KAUL. J. (ORAL)

Instant revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 04.03.2022 (Annexure P-6) passed by the Rent Controller, Ludhiana vide which application under Order 1 Rule 10 CPC filed by the petitioner for impleading her as respondent No.2 in the rent petition has been dismissed.

Learned counsel contends that the impugned order is contrary to the settled principles of law and has gravely prejudiced the rights of the petitioner. He submits that the Rent Controller failed to appreciate that though initially the demised shop was let out by Harjaspal Singh S/o Gurcharan Singh brother of respondent No.1 to Surinder Singh (brother-in-law of the petitioner), however, he left the shop in August 2000, after which it was taken over by the husband of the petitioner. Learned counsel has submitted that it was a matter of record that the husband of the petitioner had been regularly paying rent through cheques to Harjaspal Singh and hence there existed a relationship of landlord-tenant between the parties. Learned counsel has further submitted that after the death of petitioner's husband on 04.05.2017, the petitioner had continued to occupy the demised premises under the name and style of M/s Stuff Shoppee and thus she

had stepped into the shoes of her husband as a tenant and even since then, she too had been paying rent to the landlord. Learned counsel argued that the rent petition in question had been intentionally filed against the petitioner's brother-in-law Surinder Singh, who now has no link or concern whatsoever with the demised shop.

While inviting the attention of this Court to Annexure P-5, learned counsel submitted that respondent No.1 and his brother Harjaspal Singh were attempting to dispossess the petitioner illegally and forcibly due to which she had also been constrained to file a suit for permanent injunction against them. It was thus prayed that in the aforementioned facts and circumstances, more so, since the petitioner was in possession of the demised premises being tenant of respondent No.1, she was a necessary party for the effective adjudication of the case.

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

Respondent No.1 in his rent petition (Annexure P-2) averred that Mehtab Kaur (predecessor in interest of respondent No.1) had let out the demised shop bearing No.2 to respondent No.2 in the year 1996 and the terms and conditions of the tenancy had been duly reduced into writing vide rent agreement dated 02.09.1996. Still further, respondent No.1 has nowhere pleaded that the tenancy was ever transferred to the husband to the petitioner or that the petitioner now being a tenant was accompanying the demised premises.

It would be relevant to point out here that in a rent petition, the onus is always on the landlord to prove the relationship of landlord-tenant between the parties. Respondent No.1 has admittedly not claimed any relief against the petitioner. He being *dominus litis* cannot be forced to litigate against a particular

person.

Furthermore, the petitioner as per her own pleaded case is already availing her remedy before the Civil Court by way of a suit for permanent injunction and hence her apprehension of being illegally dispossessed from the demised premises is misconceived.

The instant petition being devoid of any merit deserves to be dismissed.

(MANJARI NEHRU KAUL)
JUDGE

September 13, 2022

S.Sharma(syr)

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