

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

CIVIL REVISION No.3352 of 2019 (O&M)
DATE OF DECISION : 17.05.2022

M/s Amarsons Commercial Pvt. Ltd. and AnotherPetitioners

versus

Ashok AnandRespondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. S.M. Wadehra, Advocate for the petitioners

Mr. Ashish Bansal, Advocate for the respondent

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ALKA SARIN, J. (Oral):

CM-5970-CII-2022:

CM allowed subject to all just exceptions. Annexure R-1 is permitted to be taken on record.

CM-5974-CII-2022:

This is an application for vacation of stay order dated 31.05.2019. The learned counsel for the parties are *ad idem* that instead of hearing the arguments on the application for vacation of stay, the main case itself may be heard today.

With the consent of the learned counsel, the main case is taken on board today itself.

CM stands disposed off.

CR-3352-2019:

The present revision petition has been filed impugning the order dated 19.04.2019 passed by the Rent Controller, Panchkula whereby the application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (CPC) filed by the petitioner-tenants has been dismissed.

Learned counsel for the petitioners has made two-fold submission. Firstly, that the main ejectment petition has been filed without the authorisation of the co-owners and hence the same was liable to be rejected. It is further the contention that qua the respondent there is no relationship of landlord and tenant as far as the present petition is concerned. The second submission made by the learned counsel is that in the ejectment petition at two places i.e. in Para No.9 and Para No.13 it has been mentioned that the Rent Controller at Kalka has jurisdiction to try the matter and hence the ejectment petition having been filed in Panchkula deserves to be rejected under Order 7 Rule 11 CPC having been filed in a Court having no jurisdiction to try the matter.

Per contra, learned counsel for the respondent has drawn the attention of this Court to the order dated 21.05.2019 when notice of motion was issued. The order dated 21.05.2019 reads as under:-

“Though it is very obviously a typographical error in the rent petition, that despite stating that the

demised premises is situate in Sector 11 Panchkula, the Rent Controller, Kalka has been shown as the competent authority to assess the rent, learned counsel for the petitioner herein (tenant and respondent before the learned Rent Controller), submits that the rent petition is not being even sought to be amended to correct the mistake, despite the petitioner having filed an application pointing out the said mistake.

Learned counsel for the petitioner further submits that the respondent-landlord having stated in his petition that he had the consent of all other co-owners who filed the petition but he not having, at the time of such filing, annexed any document showing such consent, the rent petition was not maintainable.

He has also submitted that it was only subsequently, in July 2017, that the other co-owners swore an affidavit to the effect that the rent petition was being pursued on their behalf also.

That being so, I see absolutely no reason to interfere with the impugned order on that ground, and consequently that contention is rejected at the threshold.

However, notice of motion is being issued on the first contention raised by learned counsel, with such notice to be returnable by 31.05.2019.

Dasti only, with liberty granted to serve the respondent – landlord through the counsel representing him before the trial court, seen to be Sh.Yogesh Mohan, Advocate, as per the impugned order.

To be shown in the urgent list.

It is made clear that there is no interim order operating in favour of the petitioner, in the meanwhile.”

The learned counsel for the respondent would contend that the argument of the learned counsel for the petitioners that the ejectment petition has been filed without the consent of all the co-owners was rejected at the threshold vide order dated 21.05.2019. The learned counsel would further contend that mentioning of word “Kalka” was an inadvertent mistake. The property in the present case is situated in Panchkula being First Floor of SCO No.23, Sector 11, Panchkula and the ejectment petition has been filed in the Court of Rent Controller, Panchkula and hence there was no reason for rejection of the plaint on the ground of lack of jurisdiction.

Heard.

In the present case, vide order dated 21.05.2019 the first argument raised by learned counsel for the petitioners that the consent of

the co-owners has not been taken prior to the filing of the ejectment petition stood rejected at the threshold. A perusal of the order dated 21.05.2019 further reveals that it was categorically submitted that subsequently in 2017 the other co-owners had sworn an affidavit to the effect that the rent petition was being pursued on their behalf. In view of the above, the first argument raised by the learned counsel for the petitioners that the main petition was filed without the authorisation of the co-owners is not maintainable and is rejected.

The second argument raised by the learned counsel for the petitioners that the word “Kalka” has been mentioned at two places in the ejectment petition i.e. in Para-9 and Para-13 and hence the Rent Controller at Panchkula would have no jurisdiction to try the case also deserves to be rejected. As per the provisions of the Code of Civil Procedure, 1908, a case may be instituted either where the subject matter is situated or where the defendants reside or cause of action arises. In the present case, admittedly, the property from which ejectment has been sought is situated in Panchkula being First Floor of SCO No.23, Sector 11, Panchkula and the ejectment petition had been filed before the Rent Controller, Panchkula. Mere mentioning of word “Kalka” in Para-9 and Para-13 would not confer jurisdiction on the Rent Controller at Kalka. Even if the argument of learned counsel for the petitioners was to be accepted, the moment the petition was filed at Kalka the same would stand rejected for want of jurisdiction. A plain reading of the ejectment petition leaves no manner of doubt that the jurisdiction in the present case would be vested in the Rent Controller, Panchkula and not at Kalka.

In view of the above, I do not find any illegality or infirmity in the order passed by the Court below. The revision petition, which is devoid of any merit, is dismissed. Pending applications, if any, also stand disposed off.

It is made clear that any observations made herein shall not be deemed as an expression of opinion on the merits of the case.

17.05.2022
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(ALKA SARIN)
JUDGE

<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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