

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

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**CR-2590-2022
Decided on : 11.07.2022**

Amarjit Kaur

... Petitioner(s)

Versus

Smt. Saroj and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Hari Om Sharma, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (Oral)

By way of present petition filed under Article 227 of the Constitution of India, the petitioner/appellant is seeking the setting aside of the impugned order dated 09.05.2022/06.05.2022 (Annexure P-1), passed by the learned Rent Controller (Jr. Divn.), Faridabad, vide which, the application filed under Order 1 Rule 10 read with Section 151 CPC, filed on behalf of the petitioner/appellant, was dismissed.

Learned counsel *inter alia* contends that the petitioner instituted a civil suit on 04.08.2021, against the Avneen Kaur and others for declaration and partition etc. in respect of the property bearing number NH1C/74, NIT Faridabad, being owner in equal share of joint family property. She also filed an application under Order 39, Rules 1 & 2 CPC, *ad interim* injunction, which was allowed on 16.09.2021, wherein, *status quo* was ordered to be maintained. However, during the pendency of the civil suit, respondents No.1 & 2 filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as 'the Rent Act') and claimed to be owners of the suit property by virtue of a sale-deed executed between them and Avneen Kaur on

18.01.2021. Learned counsel submits that it was in the aforesaid facts and circumstances, application under Order 1 Rule 10 CPC was filed by the petitioner for impleading her as she was necessary and proper party, which, however, was erroneously dismissed vide the impugned order dated 09.05.2022/06.05.2022 (Annexure P-1) by the Court below by not appreciating that the petitioners were in fact trying to claim their title over the suit property by way of the rent petition and thus were aiming to dispossess the petitioner of her share in the suit property.

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

It is a well settled principle of law that the plaintiff is the *dominus litus* and it is for him to identify the party(ies) against whom he is aggrieved. The plaintiff thus cannot be compelled to litigate against a person *qua* whom, he is not even seeking any relief. It is a settled law that for determining whether a party/person is a necessary party or not, the following two tests would have to be first satisfied:-

- I. There must be a right to relief claimed against such party in respect of the controversies involved in the proceedings.
- II. No effective decree could be passed in the absence of such party.

Adverting to the case in hand, the petition under Section 13 of the Rent Act, has been filed by respondents No.1 & 2 (defendants No.4 & 5 in the plaint) against respondent No.3. The respondents No.1 and 2 vide sale-deed dated 18th January, 2021, after purchasing the share of the earlier owner Avneen Kaur, have stepped into her shoes and as a co-

owner/landlord filed the petition under Section 13 of the Rent Act. No doubt, it has been vehemently urged that the Civil Court had ordered *status quo* in the civil suit filed by the petitioner regarding the alienation of the suit property, however, the *status quo* order would have no bearing on the instant petition, which admittedly pertained to a litigation between the landlord and tenant. The petitioner in essence is disputing the title of respondents No.1 and 2 by claiming that the sale deed dated 18.01.2021 is illegal as Avneen Kaur had no right to alienate the demised premises. It would be pertinent to observe that a Rent Controller in eviction proceedings cannot go into the issue of title of the landlord *qua* the demised premises. The jurisdiction of the Rent Controller is limited to the extent of adjudication on the question as to whether or not there exists any relationship of landlord and tenant between the parties and further, as to whether the tenant is liable to be evicted or not. It would, thus, be beyond the jurisdiction of the Rent Controller to adjudicate upon the title of the landlord. The Hon'ble Supreme Court in **Rajendra Tiwari Vs. Basu Deo Prasad, 2002(46) AIR 222 SC**, has also categorically held that the jurisdiction of the Rent Controller is limited for deciding a rent petition and pass a decree for eviction on the grounds as may be specified under the relevant enactment.

The Hon'ble Supreme Court in **Dr. Ranbir Singh Vs. Ashrafi Lal, 1995(6) SCC 580**, has categorically held that if a dispute is raised by a person *qua* the title of the landlord, the appropriate remedy available to such person would be before a Civil Court and he would be precluded from being impleaded as a party under Order 1 Rule 10 CPC in an eviction petition to claim his ownership. Admittedly, the petitioner has already filed a civil suit

qua her title with respect to the demises premises, which is already pending before the Civil Court concerned. Hence, this Court does not find any merit in the instant petition and is accordingly dismissed.

(MANJARI NEHRU KAUL)
JUDGE

July 11, 2022
J.Ram

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