

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

CR-4801-2022

Date of Decision: December 20, 2022

Ravi Kumar and another

..... Petitioners

Versus

Jawahar Lal

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.G.K. Saini, Advocate for the petitioners.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition, challenge has been made to an order dated 01.09.2022 passed by the trial Court; whereby an application under Section 151 CPC filed at the instance of petitioners/ tenants (hereinafter referred to as 'the petitioners') praying for staying the proceedings before the Rent Controller till the outcome of the civil suit titled as '*Kushma Rani Vs. Jawahar Lal and others*'; has been dismissed.

Facts leading to the present case are that respondent-landlord (hereinafter referred to as 'the respondent') filed a petition under Section 13 of the East Punjab Urban (Rent Restriction) Act, 1949, against petitioners seeking their eviction from the tenanted premises, *inter-alia*, on the grounds of non-payment of rent, bonafide necessity as well as impairment of value and utility of the premises in dispute.

Upon notice, the petitioners contested the same by filing written statement. During pendency of the eviction petition, petitioners moved an application under Section 151 CPC with a prayer for

staying the proceedings in the eviction petition on account of pendency of civil Suit titled as '*Kushma Rani Vs. Jawahar Lal and others*', involving the title dispute pertaining to the demised premises. The said application was opposed by the respondent by filing his reply. The Rent controller/ Trial Court vide order dated 01.09.2022 dismissed the aforesaid application filed at the instance of petitioners. It is the said order which has been impugned by way of present revision petition.

Learned counsel for the petitioners submits that the continuation of proceedings before the Rent Controller during pendency of the title dispute would cause serious prejudice to their rights as tomorrow, Kushma Rani may come and assert her rights against the petitioners by claiming the arrears of rent, based on outcome of the title suit pending between her and the respondent.

I have heard learned counsel for the petitioners and gone through the paper-book. I am unable to accept the contention raised on behalf of the petitioners.

A perusal of civil suit filed at the instance of '*Kushma Rani against Jawahar Lal and others*' shows that Kushma Rani is claiming only 1/8th share in the suit property having stated that respondent had purchased 1 marla 6 sarsai of the same from other co-owners who have been impleaded as defendants 2, 3 & 5 to 8 in the said suit. Even if, for the sake of argument, it is presumed that the title suit filed at the instance of Kushma Rani is decreed in her favour in toto, she would become only one of the co-sharer and not the exclusive owner

and therefore, the respondent being one of the co-sharers cannot still be debarred from pursuing the eviction petition filed at his instance.

More than that, even the apprehension laid at the instance of petitioners regarding enforcement of right of apportionment of arrears of rent to the extent of her share by Kushma Rani, in case of title suit being decided in her favour to the extent of 1/8th share is concerned, the same is even wholly misplaced as it would at best be a right enforceable at her instance against the present respondent Jawahar Lal only and not against the present petitioners who have been tendering their arrears of rent in favour of Jawahar Lal before the Rent Controller in the pending eviction petition. In fact, filing of this application by the petitioners appears to be an effort to delay the disposal of eviction petition pending against her.

In view of the discussion made hereinabove, I do not find any illegally or perversity in the order dated 01.09.2022 passed by the trial Court. Thus, the revision petition is dismissed.

December 20, 2022
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>