

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

CR-4829-2022 (O&M)

Date of Decision : 29.10.2022

Dalbir Kaur @ Amandeep Kaur

....Petitioner

VERSUS

Rupinder Singh

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ankur Ghai, Advocate for the petitioner.

ALKA SARIN, J. (Oral)

The present petition has been filed under Article 227 of the Constitution of India challenging the order dated 13.09.2022 passed by the Rent Controller, Ludhiana dismissing the application filed by the tenant-petitioner under Order 14 Rule 5 CPC for framing of additional issues.

Learned counsel for the tenant-petitioner would contend that in view of the fact that the tenant-petitioner is disputing the title of the landlord, the framing of the following additional issues would be necessary:

- a) Whether Sikander Singh executed legal and valid Will in favour of the petitioner (Rupinder Singh) relating to the property in dispute ?
- b) Whether any decree dated 22/01/2015 was obtained by the petitioner and of what effect ?
- c) Whether respondent was tenant in the property at a monthly rent of Rs.5000/- ?

In support of his argument, the learned counsel relies upon a judgment of the Supreme Court passed in **Ranbir Singh Vs. Asharfi Lal [1995 (6) SCC 580]**.

Heard.

In the present case the tenant-petitioner wants to raise the question of validity of the Will and questions qua the title of the landlord. It is trite that in a suit for ejectment under the Rent Act, the question of title cannot be gone into by the Rent Controller. The Rent Controller is only to decide whether there exists a relationship of landlord and tenant. Admittedly, Issue No.1 framed in the present case is “*Whether there exists landlord and tenant relationship between the petitioner and respondent? OPP*”.

The judgment relied upon by the learned counsel for the tenant-petitioner in the case of **Ranbir Singh** (*supra*) lays down the law as under :

“9. *It may be pointed out that it is well settled law that the question of title of the property is not germane for decision of the eviction suit. In a case where a plaintiff institutes a suit for eviction of his tenant based on the relationship of the landlord and tenant, the scope of the suit is very much limited in which a question of title cannot be gone into because the suit of the plaintiff would be dismissed even if he succeeds in proving his title but fails to establish the privity of contract of tenancy. In a suit for eviction based on such*

relationship the Court has only to decide whether the defendant is the tenant of the plaintiff or not, though the question of title is disputed, may incidentally be gone into, in connection with the primary question for determining the main question about the relationship between the litigating parties. In L. I. C. Vs. India Automobiles & Co. 1990(2) RCR 344 (SC); 1990 (4) SCC 286 at para 21 this Court had an occasion to deal with similar controversy. In the said decision this Court observed that in a suit for eviction between the landlord and tenant, the Court will take only a prime facie decision on the collateral issue as to whether the applicant was landlord. If the Court finds existence of relationship of landlord and tenant between the parties it will have to pass a decree in accordance with law. It has been further observed that all that the Court has to do is to satisfy itself that the person seeking eviction is a landlord, who has prima facie right to receive the rent of the property in question. In order to decide whether denial of landlord's title by the tenant is bonafide the Court may have to go into tenant's contention on the issue but the Court is not to decide the question of title finally as the Court has to see whether the tenant's denial of title of the landlord is bonafide in the circumstances of the case."

In the present case the Rent Controller has already framed an issue whether there exists a relationship of landlord and tenant between the petitioner and the respondent. All incidental issues arising therefrom would also to be decided while deciding the said issue. The question of title *per se* cannot be gone into in the present case.

In view of the above, I do not find any infirmity or illegality in the order dated 13.09.2022 passed by the Rent Controller. The present revision petition is accordingly dismissed. Pending applications, if any, also stand disposed off.

October 29, 2022
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO