

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

CR-4967-2022(O&M)

Date of decision:-1.12.2022

Sanjay Kumar @ Sanjay Jalota

...Petitioner

Versus

Parvinder Kumar Nayyer and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Vishnu Dutt, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

1. Briefly stated, facts of the case are that Sh.Gurbax Singh Nayyer and Sh.Amrik Singh Nayyer had brought an ejectment petition under Section 13 of the East Punjab Urban Rent Restriction Act against respondents/tenants Smt.Leela Wanti alias Leela Rani (through LRs), Ashok Kumar, Vijay Kumar (through LRs) and Sat Pal seeking ejectment of the latter from the premises situated at Hindi Bazar, Ludhiana. That ejectment petition filed on 9.12.2009 was accepted by Rent Controller, Ludhiana, who vide order dated 19.2.2014 directed the respondents to hand over the vacant possession of the demised premises to the petitioners

within a period of two months from the date of passing of the order.

2. The respondents/tenants had preferred an appeal against that order before Additional District Judge-cum-Appellate Authority, Ludhiana, who vide judgment dated 18.1.2017 dismissed the appeal and affirmed the order passed by Rent Controller, Ludhiana. Thereafter, Sh.Parvinder Kumar Nayyar son of late Sh.Gurbax Singh Nayyar had filed a suit for recovery of Rs.9,28,962/- with interest and cost against such respondents i.e. S/Sh.Sat Pal Jalota, Sanjay Kumar, Vanit and Smt.Shashi Bala, arraying them as defendants. The suit was filed alleging that Sh.Amar Nath Nayyar grandfather of the plaintiff, who was owner of property bearing Municipal Corporation No.B-IV-981, Hindi Bazar, Ludhiana had rented one shop on the ground floor to one Som Parkash Jalota, the predecessor-in-interest of the defendants by means of rent note on monthly rent of Rs.40/-; Sh.Amar Nath Nayyar had expired in the year 1968, thereafter he was succeeded to by his widow Smt.Phulla Wanti, four sons, namely, Gurbax Singh Nayyar, Amrit Singh Nayyar, Surjit Singh Nayyar and Duni Chand Nayyar and two daughters namely Santosh Dhir and Nirmala Anand; however, the rent of the property was being received by father of the plaintiff Sh.Gurbax Singh Nayyar from Sh.Som Parkash Jalota after the death of the original owner; in absence of Sh.Gurbax Singh Nayyar, the rent of shop in question was being received by other brothers/co-owners of Gurbax Singh Nayyar; subsequently Gurbax Singh Nayyar had also died but before his death, he had bequeathed the property in question along with some other properties in favour of the plaintiff vide a registered Will dated 15.10.1998, therefore

the plaintiff was competent to file the suit to recover arrears of rent from the defendants. Therefore, he has filed the suit for recovery.

3. On getting notice, the defendants appeared. During the course of proceedings, defendants No.2 to 4 had filed an application for adjourning the case sine die for the reason that in RSA-3362 of 2018 filed by the plaintiff regarding ownership of property in question, while admitting the appeal on 20.7.2018, the status quo has been ordered to be maintained and it will cause injustice to the defendants, if the civil suit for recovery is decided.

4. The application was opposed by the plaintiff stating that it was not maintainable and it had been filed to prolong the proceedings. The defendants have no right to challenge the ownership of the landlord; the ejectment order had already been passed against the defendants on 19.2.2014 by Rent Controller, Ludhiana and appeal filed by the defendants was also dismissed by the Appellate Authority on 18.1.2017. The dismissal of the application was sought for.

5. After hearing the learned counsel for the parties, the trial Court of Civil Judge (Sr.Divn.), Ludhiana vide the impugned order dated 20.5.2022 dismissed the application observing that the decree holder had filed an execution for recovery of Rs.9,28,962/- along with interest towards arrears of rent. There was no dispute that an ejectment order had been passed against the defendants and appeal had also been dismissed. The defendants have nothing to do with the RSA since that was filed with regard to ownership of the property; the defendants being tenant have no right to challenge the ownership of the property and there was no order of

any superior Court of staying the proceedings of the case; no ground was made to adjourn the case sine die. Therefore, the application was dismissed, which left the defendant/revisionist aggrieved and he has filed the present revision petition.

6. I have heard learned counsel for the petitioner besides going through the record and I find that there is absolutely no merit in the revision petition.

7. The impugned order passed by the trial Court is quite detailed and well reasoned keeping in view the facts and circumstances of the case and settled legal position. The defendants being tenants in the suit property owned by the plaintiff and others with their ejectment having been ordered by the Rent Controller, Ludhiana and such order having been affirmed in appeal by the Appellate Authority, Ludhiana, have no right to raise any objection towards filing of suit by plaintiff Parvinder Kumar Nayyer against defendants seeking recovery of arrears of rent with interest and cost. The RSA referred to by the revisionist is between co-owner of the suit property including the shop in possession of defendants as tenants. The revisionist defendant has little concern with the title of the property and the defendants No.2 to 4 can certainly not pray that proceedings in the civil suit for recovery be adjourned sine die to await the decision of RSA. The controversy involved in the RSA is entirely different from the subject matter of the civil suit. The trial Court was fully justified in dismissing the application vide the impugned order. There is absolutely no reason to interfere with the impugned order and to allow the application filed by the defendants/tenants.

8. Thus, finding no merit in the civil revision petition, the same stands dismissed.

1.12.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No