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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-7140-2017 (O&M)

Reserved on : 25.05.2023

Date of Decision : 02.06.2023

Chander Shekhar

....Petitioner

VERSUS

M/s Tirupati Chemicals and Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ram Bilas Gupta, Advocate for the petitioner.

Mr. Nihul Pratap Singh, Advocate for respondent No.3.

ALKA SARIN, J.

1. The challenge in the present revision petition under Article 227 of the Constitution of India is to the order dated 02.08.2017 passed by the Rent Controller whereby the application filed by respondent No.3 under Order 1 Rule 10 of the Code of Civil Procedure, 1908 (CPC) has been allowed.

2. Brief facts relevant to the present *lis* are that the petitioner herein, who is owner in possession of first floor of Shop No.431 situated at Bhikam Colony, Tigaon Road, Ballabgarh, Faridabad, appointed his son - Randhir Singh - as his Special Power of Attorney. The son of the petitioner

i.e. Randhir Singh leased out one shop of first floor of Shop No.431 to respondent Nos.1 and 2 on 23.09.2012 at a monthly rate of Rs.2,000/-. Since respondent Nos.1 and 2 failed to pay the arrears of rent as also on the ground of *bona fide* personal necessity, a petition was filed for ejectment of respondent Nos.1 and 2. Respondent Nos.1 and 2 were proceeded against *ex parte* vide order dated 20.11.2014. The Rent Controller vide order dated 04.07.2015 dismissed the ejectment petition holding that no relationship of landlord and tenant was established. Aggrieved by the said order dated 04.07.2015, an appeal was preferred before the Appellate Authority, Faridabad which appeal was allowed and the matter was remanded vide order dated 22.11.2016. Subsequently, an application under Order 1 Rule 10 CPC was filed by respondent No.3 herein for being impleaded as a party on the ground that he was a proprietor of respondent No.1 and that respondent No.2 had nothing to do with the proprietorship and that respondent No.3 had purchased the firm from respondent No.2 in the year 2012. Reply was filed to the said application and vide the impugned order dated 02.08.2017 the application was allowed. Hence, the present revision petition.

3. Learned counsel for the petitioner would contend that respondent No.3 herein has failed to place on record a single document to show his ownership or possession. It is further the contention of learned counsel that there is no rent agreement between respondent No.3 and the petitioner.

4. *Per contra*, learned counsel for respondent No.3 has contended that respondent Nos.1 and 2 are in connivance with the petitioner and hence

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had not appeared before the authorities and were proceeded against *ex parte* and thus the order dated 02.08.2017 has rightly been passed impleading him as a party.

5. Heard.

6. In the present case, though in the application under Order 1 Rule 10 CPC it has been stated that respondent No.3 had purchased a firm from Sushil Kumar in the year 2012 and that he was running his office from the premises in dispute since many years, however, not a single document was appended with the application nor was produced before the Rent Controller or before this Court to even remotely connect respondent No.3 with the premises in dispute. Even during the course of arguments, counsel for respondent No.3 failed to produce any document to show that respondent No.3 had purchased the firm from Sushil Kumar as averred in the application. In the absence of any document to even prima facie show the connection of respondent No.3 with the property in dispute, he could not have been impleaded as a necessary party.

7. In view of the above, the present revision petition is allowed. The impugned order dated 02.08.2017 is set aside and the application under Order 1 Rule 10 CPC filed by respondent No.3 (Annexure P-5) stands dismissed. Pending applications, if any, also stand disposed off.

02.06.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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