

CR-979-2020 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.286-2

CR-979-2020 (O&M)

Date of Decision: 19.05.2023

BHARAT BHUSHAN AND ANOTHER

....Petitioners

Versus

KASHMIR SINGH

.....Respondent

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. Umesh Aggarwal, Advocate
for the petitioners.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 10.12.2019 (Annexure P-5), passed by the Court below, whereby an application under Order 23 Rule 1 read with Section 151 CPC, filed by the petitioners for withdrawal of the Ejectment Application, with permission to file fresh one, had been dismissed.

None had made appearance on behalf of the respondent.

Learned counsel for the petitioner heard.

At the very outset, it is submitted that initially an application under Section 13 of the East Punjab Urban Rent Restriction Act was filed by both the present petitioners, thereby seeking ejectment of the respondent from the demised premises i.e. Shop No.11 situated on the ground floor of building bearing Flat No.15-16, Block No.4, Mahan Singh Gate, Cheel Mandi, Amritsar.

However, during the pendency of the said petition, the family settlement had taken place between the petitioners, copy whereof is Annexure P-2. As a result of the family settlement, the shop in question had fallen to the share of petitioner-Bharat Bhushan, as detailed in Paragraph 4 of the family settlement.

In pursuance of this family settlement, the petitioner only intends to withdraw the earlier Ejectment Petition jointly filed by both the petitioners, with liberty to file afresh, showing himself to be the owner of the shop in question. However, it is submitted that he shall not be making any change in the pleaded case of the landlord, as coming forth in Annexure P-1.

Considering the submissions, so made, and also going through the impugned order, it is evident that it is only in pursuance of the arrival of family settlement between the petitioners/landlords, that the pending Ejectment Petition, is sought to be withdrawn, in view of the rights of the parties, having crystallized in the joint property. It shall not be causing any prejudice to the rights of the respondent/tenant, so far as, the same pleaded case is again put forth in the fresh petition filed, in pursuance of arrival of family settlement between the parties.

Considering the same, the said revision petition is allowed and the impugned order is hereby set-aside. As such, liberty is given to the petitioner to file fresh Ejectment Petition on the same cause of action.

(ARCHANA PURI)
JUDGE

19.05.2023
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Whether speaking/reasoned : Yes

Whether reportable : Yes/No