

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

CR-1490-2022 (O&M)

Date of decision : 22.02.2023

Managing Director, MARKFED, Punjab

... Petitioner(s)

Versus

S.C. Bhalla (deceased) through LRs & Ors.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Karminder Singh, Advocate and
Mr. Prabhsher Singh Walia, Advocate for the petitioner.

Mr. Rajiv Kataria, Advocate and
Ms. Sunita Punia, Advocate for the respondent No.1.

ALKA SARIN, J. (ORAL)

The present revision petition has been preferred against the impugned order dated 04.03.2022 (Annexure P-4) passed by the Rent Controller whereby the application under Order 6 Rule 17 of the Code of Civil Procedure, 1908 (CPC) for amendment of the ejectment petition has been allowed.

The brief facts relevant to the present *lis* are that S.C. Bhalla, the owner of the premises in dispute, filed an ejectment petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949, as applicable to Chandigarh (hereinafter referred to as 'Rent Act') for eviction of the petitioner herein from the entire first, second and third floors of SCO No.22, Sector 17-C, Chandigarh on the grounds of sub-letting, personal necessity, material alteration, impairing the value and utility of the premises,

ceased to occupy and non-payment of rent. During the pendency of the ejectment petition, S.C. Bhalla, the original owner, died and thereafter his legal representatives were impleaded as parties. After being impleaded as parties, the legal representatives moved an application for amendment of the ejectment petition for pleading his own *bonafide* personal necessity. Respondent No.1 herein wanted to add para 10-A after para 10 to state that he did not own and possess any other commercial property in the urban area of Chandigarh and has not vacated the same and also wanted to substitute para No.11 that since the petitioner herein has not paid the arrears of rent qua the premises, so the cause of action is still continuing. The amendment application was allowed vide the impugned order dated 04.03.2022. Aggrieved by the said order, the present revision petition has been filed by the petitioner.

Learned counsel for the petitioner has contended that since the ejectment petition was filed on the ground of *bonafide* personal necessity of S.C. Bhalla and after his death, in case respondent No.1 herein wanted to plead his own *bonafide* personal necessity, a separate ejectment petition would be required to be filed. In support of his contention, he has relied upon the judgment of the Hon'ble Supreme Court in the case of **Vidyawati Vs. Man Mohan [1996 (2) RentLR 214]**.

Per contra, learned counsel for respondent No.1 has contended that subsequent events can be taken into account and the legal representatives of the deceased landlord can prosecute the ejectment petition on the basis of their own personal need in substitution of the need of the deceased landlord. In support of his contention, he has relied upon the

judgments in the cases of **Kedar Nath Agrawal (Dead) Vs. Dhanraji Devi (Dead)** by LRs [2004 (2) RCR (Rent) 498]; **Rajinder Singh Vs. Satinder Kaur & Ors.** [2015 (1) RCR (Rent) 427]; **Naresh Paul Vs. Usha Rani & Ors.** [2010 (9) RCR (Civil) 342]; **Ramesh Kumar Vs. Manoj Kumar & Ors.** [2010 (59) RCR (Civil) 155] and **Vijay Kumar Vs. Sham Lal** through LR Karan Sachdeva [2019 (2) RCR (Rent) 621].

Heard.

In the present case, originally the ejectment petition was filed by S.C. Bhalla who expired during its pendency. Thereafter, the legal representatives of S.C. Bhalla were impleaded and the legal representative i.e. respondent No.1 herein, by way of the amendment application, sought to incorporate that he required the premises for his own *bonafide* personal necessity. The argument of learned counsel for the petitioner that for the said purpose a separate ejectment petition would have to be filed deserves to be rejected in view of the settled law.

Hon'ble Supreme Court in the case of **Kedar Nath Agrawal** (supra) has held as under :

“33. Conjoint reading of clause (a) of sub-section (1) and sub-section (7) of Section 21 makes it clear that where the possession is sought by the landlord on the ground of bonafide requirement and during the pendency of the application, the landlord dies, his legal representatives can prosecute such application on the basis of their own need in substitution of the need of the deceased.”

In the case of **Rajinder Singh** (supra), it has been held as under:

“6. Death is an event which is not in the control of anyone. To say that ground of personal necessity was individualistic in its tone and tenor and was only for the landlord in his individual capacity, is not correct. This ground of ejectment against the petitioner-tenant also enures for the benefit of his widow. However, the petitioner will have to establish existence of such personal necessity in the background of facts and milieu concerning her in the contemporaneous circumstances. In any case, allowing of the application for amendment of the petition ipso facto is no proof of her personal requirement of the premises so as to order eviction which aspect is yet to be determined by the Rent Controller in the light of the evidence of the parties.”

The judgment referred to by learned counsel for the petitioner in the case of **Vidyawati** (supra) is not in ejectment proceedings under the rent laws and is in a civil suit and on a totally different proposition of law and hence, would not come to the aid of the petitioner.

In view of the settled law, no fault can be found with the impugned order passed by the Rent Controller allowing the application for amendment of the ejectment petition for pleading the *bonafide* personal necessity of the legal representatives. There is no error of law or jurisdiction

in the impugned order.

As a result, I do not find any merit in the present revision petition which is accordingly dismissed. Pending applications, if any, also stand disposed off.

Dismissed.

**(ALKA SARIN)
JUDGE**

22.02.2023
Yogesh Sharma

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