

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.3508 of 2023 (O&M)

Date of Order:29.11.2023

Kamaljit Singh Nagra (Deceased) through LR

.Petitioner

Versus

Sukhdev Singh (Deceased) through LRs and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Manoj Swaroop, Senior Advocate (through VC), with
Ms. Vidisha Swaroop, Advocate
Mr. Rose Gupta, Advocate
Ms. Hardeep Kaur, Advocate
for the petitioner.**

ANIL KSHETARPAL, J

1. In this revision petition, the correctness of the concurrent orders passed by the Rent Controller as well as Appellate Authority while dismissing the ejectment petition against the tenant who is no longer in possession as infructuous, is assailed before this court.

2. The petitioner claims to be the landlord of House No.217, Sector 9, Chandigarh. He claims to have inducted respondent-Sh. Sukhdev Singh in the premises as a tenant. While filing a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the 1949 Act') he sought eviction of Sh. Sukhdev Singh from the ground floor of House No.217, Sector-9, Chandigarh. During the pendency of the aforesaid eviction petition, pursuant to a compromise order passed by the

competent court of jurisdiction, the possession of the premises has been handed over to Sh. Paramjit Singh, who is the brother of the petitioner. Now the civil litigation between the two brothers with respect to the ownership as the various properties including House No.217, Sector 9, Chandigarh, is stated to be pending in the Hon'ble Supreme Court. As per judgment passed by all three courts, namely, the trial court, the first appellate court and the High Court, Sh. Paramjit Singh is the exclusive owner of House No.217.

3. The Rent Controller as well as the Appellate Authority have come to a conclusion that the respondent-tenant, namely, Sh. Sukhdev Singh is no longer in the possession of the disputed property and therefore the petition filed under Section 13 of the 1949 Act is rendered infructuous.

4. This Bench has heard the learned senior counsel representing the petitioner at length and with his able assistance perused the paper book.

5. The learned counsel representing the petitioner contends that first in point of time the petitioner filed a petition under Section 13 of the 1949 Act seeking eviction of Sh. Sukhdev Singh as there is no dispute that the petitioner inducted Sh. Sukhdev Singh as a tenant. During its pendency, in the collusive proceedings Sh. Sukhdev Singh on the basis of a compromise, handed over the possession to Sh. Paramjit Singh. He submits that therefore the orders passed by the authorities below are illegal. He further contends that during the pendency of the petition filed by the petitioner, Sh. Paramjit Singh filed an application under Order 1 Rule 10 CPC with a prayer to implead him as party which was dismissed on 17.12.2014. He submits that an application has been dismissed once and the same result is sought to be achieved by filing an application at the behest of Sh. Sukhdev Singh. He further submits that the tenant cannot be permitted to

hand over possession to a third party particularly when only the landlord in a petition under Section 13 of the 1949 Act can seek possession. The learned senior counsel further submits that this court should take over the property till the Hon'ble Supreme Court finally decides the matter.

6. This court has considered the submissions of the learned senior counsel representing the petitioner.

7. In a petition filed under Section 13 of the 1949 Act, the landlord is entitled to seek eviction of a tenant on the grounds specified therein. At present, the position is that the alleged tenant is no longer in possession of the property. In the civil suit, the High Court while upholding the impugned judgment has declared that Sh. Paramjit Singh Nagra, is the exclusive owner of the property. The aforementioned judgment is the subject matter of challenge before the Supreme court in SLP(C) Nos.6066, 6067 of 2018. Now, the Rent Controller cannot pass any effective order particularly when the possession of the tenanted premises has already been handed over to Sh. Paramjit Singh.

8. In a petition filed under the Rent Act, the court can only order the eviction of the tenant. Sh. Sukhdev Singh has not handed over the possession to Sh. Paramjit Singh, who has been declared the owner of the disputed property, which is subject to the final decision by the Supreme Court.

9. If the argument of the learned senior counsel is accepted, the Rent Controller will have to be directed to implead Sh. Paramjit Singh in place of Sh. Sukhdev Singh and proceed with the matter. Sh. Paramjit Singh has not only stepped into the shoes of Sh. Sukhdev Singh, but is the exclusive owner of the property, subject to the final decision of the Supreme

Court. In these circumstances, the argument of the learned senior counsel that Sh. Paramjit Singh has achieved the same result through Sh. Sukhdev Singh has no substance. The last suggestion of the learned senior counsel also has no basis because this court does not find it appropriate to take over the possession of the property till the litigation is decided.

10. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

11. Dismissed.

12. All the pending miscellaneous applications, if any, are also disposed of.

November 29, 2023
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO