

CR-4327 of 2023

2023:PHHC:105148

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

CR-4327 of 2023

Date of decision: 11.08.2023

Manoj Kumar

.....Petitioner

Versus

Joginder Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Atul Goyal, Advocate,
for the petitioner.

NAMIT KUMAR, J.

1. Instant revision petition has been preferred by the petitioner-tenant impugning the order dated 14.12.2022 passed by Rent Controller, Samrala, whereby his application under Order 1 Rule 10 CPC for impleading Ajmer Kaur widow of Surinder Singh and Satnam Singh, who were the original owners of the property in question, has been dismissed.

2. Brief facts relevant for disposal of the present revision petition are that respondent-owner filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of petitioner-tenant from the shop in question on the ground of non-payment of rent since May, 2010; material structural alterations in the building rendering the same unsafe, impairing its value and utility and also on the ground of personal necessity of his own as well as of his son. During the pendency of the said petition, petitioner-tenant filed an

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application under Order 1 Rule 10 CPC for impleading Ajmer Kaur widow of Surinder Singh and Satnam Singh son of Surinder Singh as parties to the rent petition being original owners of the shop in question. The said application has been dismissed by the Rent Controller vide impugned order dated 14.12.2022.

3. Learned counsel for the petitioner contended that the property in question was taken on rent by the petitioner from Surinder Singh and after his death, petitioner used to pay the rent to them, therefore, they are necessary parties and his application for impleading the legal heirs of late Surinder Singh has wrongly been rejected by the Rent Controller vide impugned order.

4. I have heard learned counsel for the petitioner and perused the record.

5. The relevant part of order dated 14.12.2022 passed by the Rent Controller rejecting the application under Order 1 Rule 10 CPC reads as under: -

“7. The present petition was filed by landlord Joginder Singh against tenant Manoj Kumar. However, an application has been moved under Order 1 Rule 10 read with Section 151 CPC for impleading Ajmer Kaur widow of Surinder Singh and Satnam Singh son of Surinder Singh on the ground that it was Surinder Singh who was receiving the rent from the year 1993 @ 375/- per month. This Court is of the considered view that the said contention is devoid of merits. As per deed bearing wasika No.2490 dated 12.03.2007, Surinder Singh has sold the impugned premises to Joginder Singh who is the

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present petitioner. Hence, in view of the above observation, the application in hand is dismissed.”

6. Admittedly, the property in question was sold by original owner Surinder Singh to respondent-Joginder Singh/landlord on 12.03.2007 vide deed bearing wasika No.2490 and an eviction petition was preferred by him on 08.03.2017 (Annexure P-1). Therefore, widow and son of late Surinder Singh are neither necessary nor property party to the eviction petition.

7. The Hon’ble Supreme Court in ***Kanaklata Das and others v. Naba Kumar Das and others, 2018(1) R.C.R.(Rent) 205*** held as under: -

“12. First, in an eviction suit filed by the plaintiff (Landlord) against the defendant (Tenant) under the State Rent Act, the landlord and tenant are the only necessary parties.

13. In other words, in a tenancy suit, only two persons are necessary parties for the decision of the suit, namely, the landlord and the tenant.

14. Second, the landlord (plaintiff) in such suit is required to plead and prove only two things to enable him to claim a decree for eviction against his tenant from the tenanted suit premises. First, there exists a relationship of the landlord and tenant between the plaintiff and the defendant and second, the ground(s) on which the plaintiff-landlord has sought defendant’s-tenant's eviction under the Rent Act exists. When these two things are proved, eviction suit succeeds.

15. Third, the question of title to the suit premises is not germane for the decision of the eviction suit. The reason being, if the landlord fails to prove his title to the suit premises but proves the existence of relationship of the

landlord and tenant in relation to the suit premises and further proves existence of any ground on which the eviction is sought under the Tenancy Act, the eviction suit succeeds.

16. *Conversely, if the landlord proves his title to the suit premises but fails to prove the existence of relationship of the landlord and tenant in relation to the suit premises, the eviction suit fails. ([See-Dr. Ranbir Singh vs. Asharfi Lal](#), 1995(6) SCC 580).*

17. *Fourth, the plaintiff being a dominus litis cannot be compelled to make any third person a party to the suit, be that a plaintiff or the defendant, against his wish unless such person is able to prove that he is a necessary party to the suit and without his presence, the suit cannot proceed and nor can be decided effectively.*

18. *In other words, no person can compel the plaintiff to allow such person to become the co-plaintiff or defendant in the suit. It is more so when such person is unable to show as to how he is a necessary or proper party to the suit and how without his presence, the suit can neither proceed and nor it can be decided or how his presence is necessary for the effective decision of the suit. ([See-Ruma Chakraborty vs. Sudha Rani Banerjee &Anr.](#), 2005(8) SCC 140)*

19. *Fifth, a necessary party is one without whom, no order can be made effectively, a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding. ([See-Udit Narain Singh Malpaharia vs. Additional Member Board of Revenue, Bihar &Anr.](#), AIR 1963 786)*

20. *Sixth, if there are co-owners or co-landlords of the suit premises then any co-owner or co-landlord can file a suit for eviction against the tenant. In other words, it is not*

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necessary that all the owners/landlords should join in filing the eviction suit against the tenant. ([See-Kasthuri Radhakrishnan &Ors. vs. M. Chinniyan&Anr.](#), 2016(3) SCC 296)”

8. The Rent Controller was fully justified in dismissing the application under Order 1 Rule 10 CPC filed by the petitioner. The impugned order passed by the Rent Controller is quite detailed and well-reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

9. Finding no merit in the revision petition, the same stands dismissed.

(NAMIT KUMAR)
JUDGE

11.08.2023
R.S.

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No