

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.136

Case No. : C. R. No. 5871 of 2023

Date of Decision : October 16, 2023

M/s Fine Arts, Amritsar		Petitioner
vs.		
Indian Academy of Fine Art (Regd.)		
Society and another		Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Vishal Sodhi, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in this revision petition is to the order dated 02.08.2023 (Annexure P-1), passed by learned Rent Controller, Amritsar in case bearing No.RP/201/2017, whereby the application filed by respondent no.2 – Municipal Corporation, Amritsar, under Order 1 Rule 10 CPC, for its impleadment, has been dismissed.

2. The brief facts, as culled out from the paper-book, are that respondent no.1 filed an application (Annexure P-2), under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter called as – the Rent Act of 1949), for ejectment of the petitioner from a shop, mentioned in the heading of the application.

3. The case of respondent no.1 (hereinafter called as – the landlord) is that petitioner (hereinafter called as – the tenant) was inducted into the shop in dispute vide agreement dated 12.09.1995. The terms and

agreement and on the basis of those terms and conditions, the landlord, by filing application, sought eviction of the tenant on the ground of *bonafide* requirement for personal use and occupation.

4. The tenant filed reply to the application *inter alia* on the ground that at the time of execution of agreement dated 12.09.1995, the landlord did not disclose the fact to the tenant that the property was under lease with the landlord. Since the landlord himself is a lessee of the premises in question, he has no right to file ejectment application. The induction of tenancy of tenant in the demised premises has been admitted. It has been further stated that the shop in question is not owned by the landlord as he himself is a lessee. So, the ground of personal necessity is not available to the landlord as the same is only available to a landlord/landlady, who is owner of the demised premises.

5. During the pendency of the case, an application has been moved by Municipal Corporation, Amritsar i.e. respondent no.2 under Order 1 Rule 10 read with Section 151CPC for impleading it as a party to the rent application.

6. The landlord contested the aforesaid application.

7. The learned Rent Controller came to the conclusion that Municipal Corporation, Amritsar cannot be impleaded as a party in the ejectment application as the controversy in question can be decided properly and effectively even without impleading the Corporation as a party. The cause of action and dispute between the parties is different from that of the Corporation.

8. Learned counsel for the tenant/petitioner has argued that

landlord concealed the fact in the application for ejectment that the property was taken on lease by landlord from the Municipal Corporation vide lease deed dated 17.05.1956 (Annexure P-7) and even that lease period has expired. The landlord is not an authorized occupant of the property in question. The said lease agreement is not denied by the landlord. The Municipal Corporation has claimed the ownership right in the demised premises disputing the relationship of tenant and landlord between the parties. The Municipal Corporation, Amritsar is aggrieved person, so, has the right to file the application to be impleaded as party in the rent application. It has been further submitted that Municipal Corporation, Amritsar, who is owner of the demised premises, is a proper party. Reliance in support of the contentions has been placed on Udit Narayan Singh Malpaharia vs. Additional Member Board of Revenue, Bihar and another reported as 1963 AIR (Supreme Court) 786, S. Swaminathan vs. State of Tamil Nadu, represented by the Commissioner and Secretary, Home Department, Madras and others reported as 1985(2) RCR(Rent) 171, Basir Ahmed vs. Prativa Mandal and others reported as 2019(1) Cal. L. T. 617, Sheela vs. Firm Prahlad Rai Prem Prakash reported as 2002(1) RCR(Rent) 351 and Mumbai International Airport Pvt. Ltd. vs. Regency Convention Centre and Hotels Pvt. Ltd. and others reported as AIR 2010 Supreme Court 3109.

9. I have heard the submissions of learned counsel for the petitioner and perused the case record.

10. The application for ejectment has been moved by the landlord on the ground that the tenant was inducted in the premises in question. It is

nowhere claimed in the application for ejectment that the landlord is owner of the premises. Para nos.1 and 2 of the said application read as under :-

- “1. That the applicant is a registered society under The Societies Registration Act and Sh. Arvinder Singh Chamak is duly authorized by governing council of the society vide resolution to institute, to sign and verifying the pleadings of the present application, otherwise, he is competent to file the present application against the respondent.*
- 2. That the respondent was inducted as a tenant in a Shop measuring approximately 10’ x 24’ to be shown as ‘Red’ in the proposed site plan, situated at Madan Mohan Malviya Road, Amritsar @ Rs.1800/- per month, payable in advance vide Agreement dated 12.09.1995, which is liable to increase @ 10% after expiry of every two years. The terms and conditions settled between the parties are duly incorporated under agreement dated 12.09.1995. The tenancy was oral one accompanied by delivery of possession and the terms and conditions settled only are duly incorporated in the agreement deed dated 12.09.1995.”*

11. The tenant filed written statement to the ejectment application.

Para nos.1 and 2 of the said written statement on merits are as under :-

- “1. That para No.1 of the application is denied for want of knowledge that the applicant is a registered society. The applicant is to put*

its strict proof. Even otherwise the applicant has got no locus standi to file the present ejectment application against the replying respondent. The applicant itself is a lessee of the entire building Indian Academy of Fine Art, shop in question forming the part of the same and a lessee has no right to act landlord/owner and has no right to file ejectment application. The application legally not maintainable under the law. Facts mentioned in para No.3 of the pre-objection may be read as part and parcel of this para for the sake of brevity.

2. *That para No.2 of the application is admitted that the respondent was inducted as a tenant in the shop in question. The site plan filed by the applicant is wrong and to the contrary. It is admitted that the rate of rent was fixed at the rate Rs.1800/- per month. The execution agreement dated 12.09.1995 is also admitted. It is also admitted that the rent was agreed to be increased at the rate of 10% after expiry of every two years. The terms and conditions of the agreement admitted but it is submitted here that the applicant itself is a lessee of entire building Indian Academy of Fine Art, shop in question forming the part of the same and a lessee has no right to act as a landlord/owner and has no right to file ejectment application. The application is legally not maintainable under the law.”*

12. There is admission on behalf of the tenant that he was inducted as a tenant in the demised premises. According to Section 2(c) of the Rent Act of 1949, it is not necessary that a person, who is landlord, must be the owner as well. Since there is admission of relationship of tenant and landlord between the parties, so the questions, whether the property was taken on lease by the landlord from Municipal Corporation, Amritsar; whether that lease has expired or not, are not required to be seen in the instant petition. So, the Municipal Corporation, Amritsar is not a necessary party. The next question is whether the ejectment application can be decided in the absence of Municipal Corporation, Amritsar or it would effect its rights or rights of the tenant. The answer is in the negative. Even if the Municipal Corporation is joined as a party in the ejectment application, the result would remain the same. It would not effect the merits of the case. So, Municipal Corporation, Amritsar is not a proper party. In case **Udit Narayan (supra)**, it is held that a necessary party is one, without whom no order can be made effectively and 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. In the case in hand, the first question is whether there is a relationship of landlord and tenant between the parties and second question is whether the landlord can evict the tenant on the ground of *bonafide* necessity. Similar is the case of **Mumbai International Airport (supra)**, wherein it is held that if a person is not found to be a proper or necessary party, the Court has no jurisdiction to implead him against the wishes of the plaintiff. However, in the present case, the Municipal Corporation, Amritsar is neither necessary nor a proper

party, so, the learned Rent Controller has rightly held that it cannot be impleaded as a party. The cases of S. Swaminathan (*supra*) and Basir Ahmed (*supra*) are with regard to filing of appeal by a person who is not a party to the proceedings. The said authorities are not at all applicable to the instant case. The case of Sheela (*supra*) is under the Madhya Pradesh Accommodation Control Act, 1961, for eviction, on ground of *bonafide* requirement but the case in hand is not under the said Act, which is not applicable in Punjab and the same is under the East Punjab Urban Rent Restriction Act, 1949. So, this judgment is also not applicable to the facts of the present case. Moreover, whether a landlord can evict a tenant from the demised premises, is to be seen by the Court of Rent Controller, in accordance with law, on the basis of pleadings and evidence brought on the record. This Court is not supposed to give, at this stage, any finding on the merits of the case.

13. A lawful order dated 02.08.2023 (Annexure P-1) has been passed by learned Rent Controller, Amritsar, which warrants no interference. Accordingly, the present revision petition is held to be without any merit and the same is accordingly dismissed in limine.

14. Pending applications, if any, shall stand disposed of along with this judgment.

October 16, 2023 (GURBIR SINGH)
monika JUDGE

Whether speaking/reasoned ?	Yes.
Whether reportable ?	Yes/No.