

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-8477-2014 (O&M)

Date of decision: January 31, 2023

Jaswinder Kaur Grewal

...Petitioner

versus

Gursharan Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rajbir Singh, Advocate for the petitioner.

Mr. Aakash Singla, Advocate for respondent No.1.

Mr. Mayank Mathur, Advocate for respondents No.2 to 4.

ARUN MONGA, J. (ORAL)

Petition herein is to set aside impugned order dated 30.09.2014 passed by learned Rent Controller, Patiala whereby, application filed by applicant-respondents No.2 to 4 under Order 1 Rule 10 CPC for impleading them in the rent petition, was allowed.

2. Succinct factual background, as pleaded in the revision petition, are as blow:

3. Col. Man Singh and Col. Prem Singh (both brothers) had joint land at Patiala Sangrur Road, Opposite Military Hospital, Patiala. There was a settlement and accordingly, Col. Man Singh became owner of 1670 Sq. Yards of land. He was blessed with two children, namely, Darshan Singh Grewal (son) and Jaswinder Kaur Grewal (petitioner-daughter). Vide decree dated 29.09.1995 (Annexure P-2), petitioner was declared as owner of 1340 Sq. Yards land and constructed shops thereon, situated at Patiala Sangrur Road, Opposite Military Hospital, Patiala. Thereafter, vide

holographic WILL dated 28.08.2010 of Col. Mann, an area of 330 Sq. Yards comprising of 07 shops and parking in front were bequeathed in favour of petitioner. Out of these 07 shops, two shops bearing Nos.1995/5 and 2000/5 were rented out by Col. Man Singh to respondent No.1 and after the death of Col. Man Singh, petitioner became beneficiary in the WILL dated 28.10.2010 and stepped into the shoes of her father being landlord and owner of said shops.

3.1 Respondents No.2 to 4 allegedly purchased 440 Sq. Yards of land from Darshan Singh Grewal vide sale deed dated 09.03.2012. There are no Khatauni or Khasra numbers so existing at the site. However, taking advantage of some land shown in the Jamabandi in the name of Col. Man Singh, respondents No.2 to 4 had purchased $\frac{1}{2}$ of the said land from Darshan Singh Grewal and are alleging themselves to be co-owners. Said area is under physical occupation of the petitioner in terms of aforesaid decree dated 29.09.1995. Said sale deed dated 09.03.2012 is not legal and valid. Respondents No.2 to 4 have filed suit for partition and separate possession on the basis of that illegal sale. They have also filed suit for permanent injunction against petitioner. In the interim relief, petitioner has been held to be in possession of whole property except the area of the shops under the possession of different tenants. Petitioner has filed a rent petition for eviction of respondent No.1 on the ground of non-payment of rent as also on the ground of personal requirement/ necessity.

3.2 Respondents No.2 to 4 filed an application dated 16.08.2013 (Annexure P-5) under Order 1 Rule 10 of Code of Civil Procedure, 1908 for being impleaded as party to the rent petition. Vide impugned order dated

30.09.2014, learned Rent Controller, Patiala allowed the said application and impleaded respondents No.2 to 4 as party to the rent petition. Hence the instant revision petition.

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

5. *Lis* before this Court essentially arises out of the claim and counter claim of the rival parties i.e., while the petitioner, who has filed the rent petition before the Rent Controller claims to be an exclusive owner of the property in question which has been rented out to respondent No.1, while on the other hand, respondent No.2 to 4 who had filed an application for impleadment under Order 1 Rule 10 of the CPC claiming themselves to have acquired rights in property in question by virtue of sale-deed dated 09.03.2012, which was executed by brother (Darshan Singh) of the petitioner wherein, recital states that they have half share in the property left by their father i.e., Col. Man Singh.

5.1 On a Court query, it transpires that by virtue of another civil suit for partition filed by respondent No.1 on the basis of same very sale-deed, he claims himself to be a title holder of the shops in question. In the said suit, in the written statement filed by petitioner, she has pleaded that she is exclusive owner by virtue of WILL executed by erstwhile owner (her father). Furthermore, in an earlier suit of permanent injunction preferred by respondent No.2 seeking relief against the petitioner herein, she has already filed counter-claim setting up the same plea, though, subsequently, a suit for permanent injunction was withdrawn stating that the claim is still being prosecuted by petitioner.

6. Be that as it may, given the cantankerous stand taken by parties herein *qua* title of the shops in question, it is considered rather more appropriate that the suit for partition, counter-claim as well as rent petition filed by the petitioner herein are tried together by the same Court to avoid any conflicting findings being rendered which may result in multiplicity of litigation.

7. In the premise, instead of allowing impleadment, as has been done by learned Rent Controller, which resulted in the instant revision petition, learned trial Court is requested to expedite the disposal of the civil suit for partition read with counter-claim which will necessarily govern the rival claims *qua* ownership of the shops in question.

8. Accordingly, the three pending proceedings are clubbed together and the impugned order dated 30.09.2014 is set aside. Respondent No.2, needless to say, is at liberty to take up appropriate plea/ defence *qua* title in the suit already preferred by him according to law instead of the same being adjudicated upon by learned Rent Controller, which is outside the scope of Rent Act.

9. Disposed of, accordingly.

10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

January 31, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No