



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

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**CR-2068-2024 (O&M)
Date of Decision : 17.09.2024**

M/s K.B. FOODS

.... Petitioner

VERSUS

APINDER SINGH NIJER AND OTHERS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vijay Lath, Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

CM-9718-CII-2024 & CM-15575-CII-2024

1. Applications are allowed as prayed for.
2. Documents (Annexures P-10, P-11 and P-12) are taken on record subject to all just exceptions. Registry to scan and tag the same at an appropriate place.

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3. The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 21.11.2023 (Annexure P-1) passed by the learned Civil Judge (Junior Division), Phagwara on an application filed under Order 1 Rule 10 of the Code of Civil Procedure, 1908 for impleading respondent No.1, namely, Apinder Singh Nijjer herein as a respondent to the suit.
4. Brief facts relevant to the present *lis* are that the plaintiff-petitioner herein claims itself to be a lessee under a lease deed dated 11.08.2005 (Annexure P-10) executed by the predecessor-in-interest of

respondent No.1, namely, Naib Singh. In the said lease agreement reliance has been placed upon Clause No.5 whereby the plaintiff-petitioner herein was given the right to sub-let the property in question. The said lease deed was for a period of 50 years. It is to be noted that the said lease deed is an unregistered lease deed. On the basis of the said unregistered lease deed dated 11.08.2005 (Annexure P-10), the property in question was sub-let to M/s Subway System India Pvt. Ltd. (SSIPL) by the plaintiff-petitioner herein on 03.09.2015 for a period of 15 years. Vide sale deed dated 03.03.2020 (Annexure P-12) the property in question was sold by the legal representatives of Naib Singh in favour of Apinder Singh Nijjer - respondent No.1 - herein for valuable consideration. The sale deed (Annexure P-12) reveals that there is no mention of the lease deed in favour of the plaintiff-petitioner herein. It is to be noticed that the plaintiff-petitioner herein has preferred a civil suit against Apinder Singh Nijjer - respondent No.1 - for declaration to the effect that the plaintiff-petitioner i.e. M/s K.B. Foods is the lessee in property measuring 14 Kanals as described in the plaint therein as also for mandatory injunction directing Apinder Singh Nijjer - respondent No.1 - to execute a duly registered lease deed in its favour as also for permanent injunction. The present suit has been filed by the plaintiff-petitioner against M/s Subway System India Pvt. Ltd. (SSIPL) for possession as also for recovery of the lease money. In the said suit an application was filed by Apinder Singh Nijjer - respondent No.1 - for being impleaded as a party which was allowed vide the impugned order. Hence, the present revision petition by the plaintiff-petitioner.

5. Learned counsel for the plaintiff-petitioner would contend that this is a contractual agreement between the lessor and the lessee i.e. the plaintiff-petitioner herein and M/s Subway System India Pvt. Ltd. (SSIPL) and that even though Apinder Singh Nijjer - respondent No.1 - herein had purchased the property, he would have no right to intervene in the said suit. Reliance has been placed upon the judgments of the Hon'ble Supreme Court in the case of **Mohamed Hussain Gulam Ali Shariffi V/s Municipal Corporation of Greater Bombay & Ors. [2017 (1) RCR (Civil) 727]** to contend that the plaintiff being *dominus litis* cannot be forced to add any person as a party to his suit and that since there is no relief claimed against Apinder Singh Nijjer - respondent No.1 - he cannot be impleaded as a party to the suit. Relying upon the judgment of the Hon'ble Supreme Court in the case of **Nand Ram (D) through LRs & Ors. V/s Jagdish Prasad (D) through LRs [2020 (2) RCR (Civil) 522]** it is further contended that the lessee continues to be liable to the lessor till the possession has been actually restored to lessor. Learned counsel has further argued that as per Section 108 of Transfer of Property Act, 1882, on the determination of the lease the lessee is bound to put the lessor into possession of the property.

6. Heard.

7. The present case is a peculiar case inasmuch as on the basis of an unregistered lease deed dated 11.08.2005 (Annexure P-10), the plaintiff-petitioner claims to have come into possession of the suit property for a period of 50 years. On the basis of the said unregistered lease deed dated 11.08.2005 (Annexure P-10) the property in question was sub-let to M/s

Subway System India Pvt. Ltd. (SSIPL) by the plaintiff-petitioner for a period of 15 years on 03.09.2015 (Annexure P-11). Simultaneously, the plaintiff-petitioner herein has filed the suit against Apinder Singh Nijjer - respondent No.1 - who is the real owner of the property in question and who has now been impleaded as a party on the basis of an application moved by him under Order 1 Rule 10 CPC, for a declaration that the plaintiff-petitioner is a lessee in the suit property as also for mandatory injunction directing the defendant therein to execute a registered lease deed in favour of the plaintiff-petitioner. Respondent No.1, who is the real owner of the property, has now filed the present application for being impleaded as a party. On the one hand it is an admitted case of the plaintiff-petitioner, who has filed the civil suit, that there is no registered lease deed in its favour and infact the plaintiff-petitioner has prayed for a decree of mandatory injunction for executing a registered lease deed in its favour while on the other hand the present suit has been filed for possession against the sub-lessee having sub-let the property on the basis of an unregistered lease deed dated 11.08.2005 (Annexure P-10) in favour of the plaintiff-petitioner. Any decision in the present suit adjudicating upon the validity of the lease deed 03.09.2015 (Annexure P-11) is bound to have an effect on the suit (Annexure P-6) which has been filed by the plaintiff-petitioner itself. Once the question of the validity of the lease deed itself is to be gone into, the undisputed owner of the property in question i.e. Apinder Singh Nijjer - respondent No.1 - herein would be a necessary party. The judgment relied upon by the learned counsel for the plaintiff-petitioner in the case of **Mohamed Hussain Gulam**

Ali Shariffi (supra) would not come to his aid as in the said case it has been held that a party who is necessary and without whose presence neither the suit can proceed nor the relief claimed can be granted, can only be allowed to be impleaded as a party. In the present case as noticed above the presence of respondent No.1, namely, Apinder Singh Nijjer, would be necessary as the adjudication would be on the validity and terms and conditions of the lease deed 03.09.2015 (Annexure P-11) based on clause 5 of the unregistered lease deed dated 11.08.2005 (Annexure P-10) for a period of 50 years. The judgment relied upon by the learned counsel for the plaintiff-petitioner in the case of **Nand Ram (D) through LRs & Ors.** (supra) would also not come to his aid as there is no quarrel with the proposition of law, however, the said judgment is totally distinguishable on facts.

8. In view of the above, I do not find any merit in the present revision petition. The same being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

9. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

17.09.2024
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No