



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(i) CR-5068-2023 (O&M)

Ashok Kumar Pabbi through LRs
...Petitioner

VERSUS

Arun Kumar Pabbi and others
...Respondents

(ii) CR-3750-2024 (O&M)

Ashok Kumar Pabbi through LRs
...Petitioner

VERSUS

Arun Kumar Pabbi and others
...Respondents

Date of Decision: November 12, 2025

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Rishabh Gupta, Advocate
for the petitioner.

Mr.Ankit Gupta, Advocate
for respondent No.1.

Respondents No.2 and 3 proceeded against ex-parte.

ARCHANA PURI, J.

Vide this order, this Court intend to decide two revision
petitions filed under Article 227 of the Constitution of India, to assail the
orders passed by learned trial Court, whereby applications under Order 1
Rule 10 CPC, filed at the instance of Arun Kumar Pabbi, to be a party, to the

pending litigation, were allowed.

The facts, as culled out from the paper-book, are as follows:-

That, initially, Ashok Kumar Pabbi had filed petition under Section 24(1) (c) of the Punjab Rent Act, for seeking ejectment of tenants from the shop, as detailed in the headnote of the plaint, as evident from the dated 02.04.2018, copy whereof is Annexure P-1. The petition was filed, on the ground of bonafide necessity. However, learned trial Court ordered the eviction of the tenants-respondents No.2 and 3, from the premises vide order dated 02.04.2018. Thereupon, respondents-Tarsem Lal Jain and Shiri Pal Jain had filed an appeal. In the meanwhile, Ashok Kumar Pabbi had expired. The execution petition was also filed by petitioner and LRs were impleaded.

However, during the pendency of the appeal as well as execution, Arun Kumar Pabbi, brother of Ashok Kumar Pabbi had filed an application under Order 1 Rule 2 CPC, in the appeal, thereby, making prayer for himself to be impleaded as respondent No.2, together with Ashok Kumar Pabbi. Similar application was also filed, thereby, making prayer for being impleaded as petitioner No.2, in the execution.

In both the applications, Arun Kumar Pabbi-respondent No.1 before this Court, had asserted about Amrit Lal Pabbi, to be the owner of the property, which was rented to Roshan Lal and after death of Amrit Lal Pabbi, he was survived by four sons and two daughters, namely, Ashok Kumar Pabbi, Arun Kumar Pabbi, Ravi Pabbi, Surinder Pabbi (sons), Promila and Pushpa (daughters). The legal heirs of Amrit Lal Pabbi are the co-sharers in the suit property and on this account, he had sought himself to be impleaded in the appeal as well as execution petition.

However, reply was filed, at the instance of the decree holder, who resisted the said application. After hearing counsel for the parties, both the separate applications were decided by the Courts concerned. The executing Court vide order dated 20.07.2023 had allowed the said application. Likewise, learned Appellate Court had allowed the application vide order dated 31.05.2024.

Being aggrieved, the petitioner has filed the revision petition i.e. CR-5068-2023 to challenge the order dated 20.07.2023 (Annexure P-11) passed in the execution petition and also filed CR-3750-2024 to assail the order dated 31.05.2024 (Annexure P-7) passed by learned Appellate Court.

In pursuance of the notice issued, the contesting respondent made appearance through counsel in both the revision petitions.

Counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the petitioner that in the tenancy petition, only two persons are necessary parties for the decision of the suit, namely, the landlord and the tenant. As evident from the paper-book, petitioner Ashok Kumar Pabbi had categorically asserted about his father Amrit Lal Pabbi to be the owner of the premises and same was let out to Roshan Lal, father of respondents No.2 and 3 @ Rs.1000/- per month. He also stated that both Amrit Lal Pabbi and Roshan Lal had died and thereupon, he inherited the demised shop, along with his brothers and sisters and he is receiving rent from the tenants, since the year 2006, by filing rent petitions. Thus, there is relationship of tenant and landlord existing between the parties and he also asserted about the bonafide requirement of shop to open grocery shop to earn his livelihood.

An application for seeking leave to contest was filed at the instance of

respondent No.1, thereby, asserting that petitioner has not mentioned the names of the respondents, in the correct manner and he is not the sole legal heir of Amrit Lal Pabbi and there are six legal heirs. Therefore, the petition, on the basis of single landlord is not maintainable.

However, learned trial Court, had dismissed the application for leave to contest and allowed the rent petition, thereby, directing the tenants to handover the vacant possession of the demised shop.

Being aggrieved, the tenant had filed the appeal and as already observed aforesaid, even, execution petition was filed. Therein, separate applications under Order 1 Rule 10 CPC were filed and the same were allowed vide impugned orders.

In this backdrop, before proceeding further, beneficial reference is made to the decision rendered by the Hon'ble Supreme Court in ***Kanaklata Das & Ors. vs. Naba Kumar Das & Ors., 2018 (1) RCR (Rent) 205***. Therein, the controversy involved was with regard to the application under Order 1 Rule 10 CPC having filed to become co-plaintiff along with the plaintiff, in the ejectment suit. Considering the controversy involved, the Hon'ble Supreme Court had formulated certain principles, relating to the question involved in the appeal. Therein, it was also observed that in the eviction suit, the landlord and tenant, under the State Rent Act, are the only necessary parties and it was further observed, as herein given:-

“11. There are some well-settled principles of law on the question involved in this appeal, which need to be taken into consideration while deciding the question arose in this appeal. These principles are mentioned infra.

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(2) RCR (Rent) 534 : 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 (4) RCR (Civil) 394 : 2005(2) RCR (Rent) 460 : 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 Supreme Court 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 necessary that all the owners/landlords should join in filing the eviction suit against the tenant. **(See-Kasthuri Radhakrishnan & Ors. vs. M. Chinniyar & Anr., 2016 (1) RCR (Rent) 197 : 2016 (2) Recent Apex Judgments (R.A.J.) 468 : 2016(3) SCC 296).**

21. Keeping in mind the aforementioned well settled principles of law and on examining the legality of the impugned order, we find that the impugned order is not legally sustainable and hence deserves to be set aside.

22. In our considered opinion, respondent No. 1, who claims to be the co-sharer or/and co-owner with the plaintiffs (appellants herein) of the suit property is neither a necessary and nor a proper party in the eviction suit of the appellants against respondent Nos. 2 to 5. In other words, such eviction suit can be decreed or dismissed on merits even without the impleadment of respondent No.1.

23. In the eviction suit, the question of title or the extent of the shares held by the appellants and respondent No. 1 against each other in the suit premises cannot be decided and nor can be made the subject matter for its determination.”

In the given circumstances, while considering the suit for ejectment, not to be a suit between plaintiff and respondent No.1, therein, their inter-se rights relating to the suit premises, could be gone into. Rather, it was an ejectment suit filed only to seek ejectment of the tenants from the suit premises and it was held that decision of the suit would depend upon the question, as to whether their exist relationship of landlord and tenant between the appellants and respondents No.2 to 5 (in the case under consideration), in relation to the suit premises and if so, whether the grounds pleaded in the plaint for claiming eviction of respondents No.2 to 5 are established or not. For decision these two main questions, the presence of respondent No.1 (who filed the application) was considered to be not necessary.

Precisely, on this account, it was observed that respondent No.1 is neither a necessary and nor a proper party in the suit.

In the light of the aforesaid conclusion, it was further observed as herein given:-

“27. We, however, make it clear that any finding whether directly or indirectly, if recorded by the Trial Court touching the question of title over the suit property, would not be binding on respondent No.1 regardless of the outcome of the suit and respondent No. 1 would be free to file an independent civil suit against the appellants for a declaration of his right, title and interest in the suit premises and in any other properties, if so, and claim partition and separate possession of his share by metes and bounds in all such properties.

28. In view of the foregoing discussion, the appeal succeeds and is allowed. The impugned order is set aside and the order of the Trial Court is restored.”

The case in hand is squarely covered by the principles laid down by the Hon’ble Supreme Court, as detailed aforesaid. In the case in hand, the petitioner, who filed the ejectment petition, was collecting rent from the tenants, since the year 2006, as asserted. In the light of the same, he is covered under the definition of ‘landlord’ of the ibid Act.

Considering the same, even though, contesting respondent No.1-Arun Kumar Pabbi is the brother of Ashok Kumar Pabbi, even then, in the minimum, he cannot be allowed to be impleaded, at the appellate stage as well as execution stage. Irrespective of the outcome of the appeal or of the execution, respondent No.1 would be free to file any independent suit for seeking declaration of his right, title and interest, in the suit premises. But anyhow, he cannot be allowed to become a party to the pending litigation, at the stage, wherein, the applications, as such, have been allowed.

In view of the aforesaid observations, both the revision petitions are allowed and the impugned orders passed by learned Appellate Court as well as Executing Court are hereby dismissed and consequently, the applications filed under Order 1 Rule 10 CPC stand dismissed.

November 12, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No