

(2019) 07 SHI CK 0065
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 442 Of 2017

Deepak Sood

APPELLANT

Vs

Parmod Sood And Others

RESPONDENT

Date of Decision : 02-07-2019

Acts Referred:

Himachal Pradesh Urban Rent Control Act, 1987 — Section 2(d)
Code Of Civil Procedure, 1908 — Order 1 Rule 10

Citation : (2019) 07 SHI CK 0065

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Gaurav Sharma

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

1. As per the report of the Registry, respondent No.1 has been duly served. As none has put in appearance on his behalf, the said respondent is ordered to be proceeded against ex-parte.

Further as per report of the Registry, fresh steps as also the correct address for the service of respondent No.2 have not been filed. At this stage,

learned counsel for the petitioner submits that respondent No.2 has left the premises in issue. As there is a stay operating against the proceedings

pending before the learned Rent Controller since 6.10.2017, therefore, learned counsel for the petitioner was heard on merit.

By way of this petition, the petitioner has assailed order dated 23.9.2017, passed by the Court of learned Rent Controller, Court No.3, Shimla, in a

miscellaneous application filed by the present petitioner under Order 1, Rule 10 of the C.P.C., wherein a prayer was made before the learned Rent

Controller to implead the present petitioner as a party petitioner in the Rent Petition.

2. Brief facts, necessary for the adjudication of the present petition are that the present petitioner and respondent No.1 are relatives. There is property

owned by them within the limits of Municipal Council, Shimla, in which respondent No.2 at one point was inducted as a tenant.

3. In the year 2011, respondent No.1 Parmod Sood filed a petition for eviction of the said tenant before the Court of learned Rent Controller, Shimla.

4. In the year 2015, an application was filed under Order 1, Rule 10 of the C.P.C. by the present petitioner for being impleaded as petitioners/landlord

in the rent petition inter alia on the ground that he was a co-owner of the demises premises and in fact, it was he who had inducted respondent No.2

as tenant in the demises premises.

5. The application was opposed by respondent No.1 herein inter alia on the ground that the application was not filed by stating proper facts and there

was suppression of material facts. It was further mentioned in the reply that there were litigations going on between them and the petitioner herein

was trying to help the tenant. It was also the case of respondent No.1 that the application was filed at a belated stage. The rent petition was filed in

the year 2011 and present petitioner was aware about the factum of the pendency of the same, yet he filed the application only in the year 2017. It

was further the stand of the said respondent that it was settled law that any co-owner can file a petition for eviction of the tenant.

6. Vide impugned order, the application has been dismissed by the learned Rent Controller. It rejected the contention of the present petitioner that he

was a necessary party for the adjudication of rent petition, by holding that as the rent petitioner was a landlord as defined in Section 2(d) of the Act,

therefore, he was competent to file and maintain the petition on behalf of all concerned.

7. Learned Court further held that even if the petition for eviction was allowed, the question as to who ought to receive the possession would be

decided inter-se the co-owners of the property whenever said issue arose. On these basis, it held that the present petitioner was not a necessary

party.

8. I have learned learned counsel for the petitioner and have also gone through

the impugned order as well as the documents appended with the petition. It is not in dispute that the petitioner herein and respondent No.1 are relatives and the demises property is co-owned by them. It is also not in dispute that respondent No.2 herein was inducted as tenant in the said premises and it is for the eviction of the said tenant that the petition stood filed by present respondent No.1 before the learned Rent Controller as far back as in the year 2011.

9. Section 2 (d) of the H.P. Urban Rent Control Act, 1987 defines the landlord as under:-

“Landlord” means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit, of any other person, or as a trustee, guardian, receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter authorised, a specified landlord, and every person from time to time deriving title under a landlord?

10. The definition per-se provides that landlord means any person for the time being entitled to receive rent in respect of any building or rented land whether on his account or on behalf of the other person including every person from time to time derives title under a landlord. The definition thus

clearly contemplates that if there are more than one co-owners, it is open for any one co-owner, to file a petition for eviction of a tenant under the

provisions of the H.P. Urban Rent Control Act. It has not been disputed before me that respondent No.1 is a landlord in terms of Section 2(d) of the

Act. However, the contention of learned counsel for the petitioner herein is that he also being a landlord, is a necessary party and he also has a right to

be impleaded as petitioner before the learned Rent Controller. In my considered view, the contention of learned counsel for the petitioner sans merits.

As has also been held by the learned Rent Controller, it is not necessary that each and every landlord has to be there as a petitioner whenever a rent

petition for eviction is filed. One of them is suffice to pursue the matter.

11. As per the findings returned in the impugned order by the learned Rent Controller, the petitioner therein fulfills the definition of landlord provided in

Section 2 (d) thereof. These findings in my considered view are correct findings as it is not in dispute that respondent No.1 herein, who is the

petitioner before the learned Court below, in fact is a co-owner of the demises premises meaning thereby that he is landlord in respect of the said premises.

12. This Court can also not lose sight of the fact that the rent petition was filed somewhere in the year 2011 and the application for impleadment as a party was filed by the present petitioner only in the year 2017. There is no cogent explanation as to what took the present petitioner almost 6 years to move an application to be impleaded as a party. This strengthens the contention of respondent No.1 as taken before the learned Court Below that the application was just filed to help the tenant and harass the rent petitioner.

13. Therefore, as this Court does not find any infirmity with the findings returned by the learned Court below in order dated 23.09.2017, this petition is dismissed being devoid of any merit.

The interim stands vacated.