

(2010) 07 P&H CK 0157
In the Punjab And Haryana At Chandigarh

Radhe Sham

APPELLANT

Vs

Gopal Krishan

RESPONDENT

Date of Decision : 28-07-2010

Acts Referred:

Citation : (2010) 07 P&H CK 0157

Hon'ble Judges : Mahesh Grover, J

Bench : Single Bench

Judgement

Mahesh Grover, J.—The only grievance raised in this petition preferred against order dated 20.9.2005 passed by the Civil Judge (Junior Division), Amritsar, exercising the powers of Rent Controller under the East Punjab Urban Rent Restriction Act, 1949 whereby the prayer of the petitioner to consolidate the three ejectment petitions filed by him has been declined, is that the Rent Controller has not appreciated the facts in right perspective and, therefore, the aforesaid order may be set aside.

2. The predecessor-in-interest of the petitioner had created three tenancies by executing three different rent notes in favour of the respondent qua one building, although for separate portions. He filed three ejectment petitions seeking eviction of the respondent on the ground of personal necessity.

3. An application for consolidation of all the three ejectment applications was moved by the petitioner on the ground that the parties are the same, the tenancies were created by his predecessor-in-interest and that it will be in the interest of justice to try all of them together.

4. The application was opposed by the respondent who pleaded that the tenanted premises were different and were not contiguous and, therefore, the ejectment petitions could not be consolidated.

5. As noticed above, the Rent Controller, vide the impugned order, rejected the prayer of the petitioner resulting in the filing of the instant petition.

6. Learned Counsel for the petitioner contended that no prejudice will be caused to the respondent if the ejectment petitions are consolidated.

7. To the contrary, learned Counsel for the respondent submitted that since the demised premises are different and not contiguous, therefore, the consolidation of the ejectment petitions would create confusion. He also contended that unless there is an error of jurisdiction committed by the Court below while passing the impugned order, the revisional jurisdiction cannot be exercised by the High Court.

8. After hearing the learned Counsel for the parties and perusing the file, I am of the opinion that the prayer of the petitioner is adequately justified. No prejudice is likely to be caused to the respondent if the ejectment petitions are consolidated for the simple reason that the ground which has been pleaded for seeking his ejectment is the personal necessity of the petitioner and does not pertain to the building or its condition as such. Therefore, in the event of personal necessity being proved, it is likely to be proved regarding the whole tenanted premises and the evidence in all probabilities is likely to be the same. Likewise, the evidence of the respondent is also going to be similar. Moreover, the parties to the dispute are the same and cause of action is essentially identical.

9. In so far as the contention of the learned Counsel for the respondent that the revisional jurisdiction cannot be exercised by the High Court unless some jurisdictional error has been committed by the Court below, there is no dispute with the proposition of law, but if the facts in the case in hand are to be seen, then the consolidation of all the three petitions would only enhance the cause of justice.

10. In the result, the revision petition is accepted and the impugned order is set aside. The Rent Controller shall consolidate all the three ejectment petitions and shall proceed therewith in accordance with law.