

(2012) 10 P&H CK 0057

High Court Of Punjab And Haryana At Chandigarh

Case No: C.R. No. 5610 of 2011 (O and M)

Jagan Nath Sharma

APPELLANT

Vs

Anita Mehtani

RESPONDENT

Date of Decision: Oct. 8, 2012**Acts Referred:**

- Haryana Urban (Control of Rent and Eviction) Act, 1973 - Section 15(vi)

Hon'ble Judges: Jaswant Singh, J**Bench:** Single Bench**Advocate:** R.N. Singal, for tenant, for the Appellant;

Judgement

Jaswant Singh, J.

Petitioner(tenant) is in revision u/s 15(vi) of Haryana Ur-ban(Control of Rent & Eviction) Act, 1973(here-in after referred to as the "Act") against the order dated 03.09.2011(Annexure P-1) passed by learned Rent Controller, Hisar whereby the application filed by the petitioner (tenant) for dismissal of the rent petition on the ground that the respondent (landlady) has already sold the property to some third person and, therefore, the ejectment petition has become infructuous has been dismissed. In brief, facts of the case are that the petition was filed by Anita Mehtani being the land-lady/co-owner of the property in question on the ground of non payment of arrears of rent as well as on the ground that the tenant has damaged and demolished the main gate/pillar of the house in question and thus has made material additions and alterations in the demised premises.

2. Upon notice, the tenant denied all the averments and also tendered the rent during the pendency of the petition and therefore, the sole ground of material additions and alterations had remained for decision in the said application.

3. However, during the pendency of the said petition, the landlady namely Anita Mehtani transferred her entire = share of the demised premises in favour of Kusum Lata Sardana vide registered sale deed dated 8.9.2010 and thus as the landlady

Anita Mehtani was left with no right or title in the property, therefore, the petition is liable to be dismissed.

4. Upon notice, respondent Anita Mehtani admitted that she had transferred the property in favour of Kusum Lata. However, it was stated that Kusum Lata Sardana is entitled to continue the proceedings as the same do not become infructuous.

5. After hearing learned Counsel for both the parties, the learned Rent Controller had dismissed the application vide its impugned order dated 3.9.2011, whereby it was observed that the application was completely devoid of merit for the reason that the existing state on the date of filing of the petition has to be seen and not the subsequent changes.

6. I have heard learned Counsel for the petitioner(tenant) and have perused the paper book carefully with his able assistance.

7. Learned Counsel for the petitioner(tenant) has vehemently argued that learned Rent Controller has failed to take into consideration the subsequent events that have taken place during the pendency of the petition which makes it amply clear that respondent is no longer the owner of the property and thus she is not even the landlady as envisaged under the Act. After hearing learned Counsel for the petitioner(tenant) and perusing the paper book with his able assistance, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed. It is not in dispute that the ejectment petition was filed by the landlady Anita Mehtani. She was a co-sharer in the property and the relationship of landlord and tenant was admitted by the present petition between the parties. It is also not in dispute that subsequently Anita Mehtani had sold the property to Kusum Lata who, admittedly was a co-sharer with Anita Mehtani to the extent of= share. Consequent to transfer of share by Anita Mehtani, Kusum Lata has become the complete owner of the property. Thus, if there is any dispute qua ownership or title or continuation of ejectment proceedings by Anita Mehtani of the property, it is only for Kusum Lata to say and not to the present petitioner, for the reason that for the present petitioner Kusum Lata was a landlady at the time of filing of the petition and the Rent Controller has to adjudicate upon the facts which are there on record for the continuation of the present eviction petition. Person, if any, who is aggrieved has to be Kusum Lata and not anybody else. This court would have concurred with the arguments of the learned Counsel for the petitioner had it been a case of personal necessity of the landlady/respondent. However, the present case was filed by the respondent(landlady) on the ground of material additions and alterations made by the tenant in the premises. Thus in any case, the right to pursue the petition would survive with the Kusum Lata if she impleads herself as a party to the present petition and otherwise, to Anita Mehtani, who will remain the landlady for the ejectment petition.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.