

(2014) 07 P&H CK 0783

High Court Of Punjab And Haryana At Chandigarh**Case No:** CR No. 4489 of 2014

AIMS Billiards and Consultants

APPELLANT

Vs

Mahinder Pal Gupta

RESPONDENT

Date of Decision: July 15, 2014**Acts Referred:**

- Civil Procedure Code, 1908 (CPC) - Order 1 Rule 10, Order 22 Rule 10, Order 6 Rule 17, Order 7 Rule 11, 151

Hon'ble Judges: Bharat Bhushan Parsoon, J**Bench:** Single Bench**Advocate:** Manoj Kumar, Advocate for the Appellant

Judgement

Dr. Bharat Bhushan Parsoon, J.

A suit for possession by way of ejectment of the defendants from the demised premises and for recovery of arrears of rent with effect from June 2007 to September 2007 and for damages as well as mesne profits w.e.f. 1.10.2007 with interest thereon @ 9% etc. is pending adjudication before the Civil Court at Panchkula since 2007. The written statement was preferred by the defendant on 21.12.2007. Replication was filed on 24.3.2008. During the pendency of the suit, premises in dispute were sold by the plaintiff to M/s. 21st Century Steel Structure Private Ltd., Panchkula. It was vide sale deed (Annexure-P5) of 2.6.2009. Vide an application moved under Order I Rule 10 and Order XXII Rule 10 Rule read with Section 151 CPC for impleadment of subsequent purchaser i.e. M/s. 21st Century Steel Structure Private Ltd. that vendee was transposed as plaintiff No. 2.

2. When the vendee was transposed as plaintiff No. 2, it preferred not to file any independent pleadings and rather stepping into the shoes of its vendor i.e. plaintiff No. 1, filed only amended title. After purchase of the property by plaintiff No. 2 (now respondent No. 2) the tenants (now petitioners), started paying rent to it and continued paying the same since June, 2009 to August 2010. Thereafter, the rent had been paid in the Court in terms of provisions of the Haryana Urban (Control of

Rent and Eviction) Act, 1973 (hereinafter referred to as the Act).

3. Taking transposition of the subsequent vendee as plaintiff No. 2 as a new development during proceeding of the suit, the defendants made an application under Order VI Rule 17 CPC for amendment of their written statement raising objection to locus standi of the newly transposed plaintiff No. 2 to maintain the suit. Other incidental and ancillary matters had also been sought to be introduced by way of amendment in the written statement.

4. Vide impugned order dated 19.5.2014, this request of the petitioners/defendants for amendment of their written statement was declined.

5. By way of this revision petition, the petitioners seek to set aside the impugned order claiming that filing of amended written statement so as to incorporate the details of the events, which resulted in transposition of the vendee as plaintiff No. 2, is necessary.

6. The lower Court did not approve of this venture of the petitioner-defendants and rejected the said request denouncing such move of the petitioner-defendants as the one meant for delaying and dilating the proceedings.

7. Even in the present petition, it is claimed that since transposition of the subsequent vendee in the plaint as plaintiff No. 2 had taken place during pendency of the suit, a right to furnish fresh written statement has accrued to the petitioners-defendants and that they should not be denied an opportunity to set up their case against the newly added plaintiff No. 2.

8. Hearing has been provided.

9. No doubt transposition of a subsequent vendee as plaintiff No. 2 in the array of plaintiffs is an event which took place during pendency of the suit, but since no new pleadings were furnished by plaintiff No. 2 and the pleadings preferred by the earlier plaintiff (predecessor-in-interest of the plaintiff No. 2) were adopted as such without any change of stand, no right to file a subsequent written statement had arisen. No wonder after transposition of plaintiff No. 2 in the array of plaintiffs, only amended memo of the parties was furnished by them clearly depicting that there was no change in the stand of the subsequent vendee.

10. Even otherwise, plaintiff No. 2 could not have taken up any new stand because on purchase of the suit property from plaintiff No. 1, plaintiff No. 2 had merely become a successor-in-interest while stepping into the shoes of plaintiff No. 1. Even the cause of action which arose in favour of plaintiff No. 1 continues to form genesis of this litigation, in law is enduring as such for plaintiff No. 2 as well.

11. Plea of the petitioners-defendants that provisions of the Act have also become applicable is not a ground worthy of consideration. The suit was filed by the plaintiff for possession of the premises and that too much earlier to completion of 10 years

from the date of completion of construction. Subsequent sale of the suit property would not result into a fresh litigation particularly when the plaintiff who had filed a suit for possession continues to be a party to this litigation and the litigation continues as such under his aegis. In short, cause of action which had arisen in favour of plaintiff No. 1 enures even for plaintiff No. 2 as it has only stepped into the shoes of plaintiff No. 1 i.e. the original owner and cannot be denied the right to continue with the same litigation.

12. The lower Court had also noticed conduct of the petitioners-defendants with focussed attention. It would not be out of place to mention that the petitioners-defendants had been filing one application after the other. Even application under Order VII Rule 11 CPC had been filed after sale of the property from plaintiff No. 1 to plaintiff No. 2. It was contested by the plaintiffs tooth and nail. This was rejected by the lower Court. Even revision preferred by the petitioners-defendants in this Court against the order of dismissal of application under Order VII Rule 11 CPC had met with the same result. The following observations made by the lower Court in impugned order are reflective of the conduct of the petitions. These are as follows:-

This Court does not find favour with the submissions of the applicant at the stage when the issues in the present case have been framed and case is already fixed for evidence of the defendant. The present application has been moved with the ulterior motive of delaying the proceedings in the present case. Also the perusal of the case file reveals that the applicant had also filed successive application in order to delay the matter. Looking at the conduct of the applicant and the fact that present application is devoid of merits, the present application is dismissed and accordingly disposed of.

13. The impugned order discusses all the aspects of the case meticulously and the same is very well written. Lacking any factual or legal infirmity, the revision petition is dismissed.