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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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Date of decision : 06.02.2025

Santokh Singh Bassi

... Petitioner

Versus

Balbir Kaur and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

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

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 06.11.2024 (Annexure P-5) passed by the Rent Controller, Jalandhar, vide which the application filed by the respondents under Order 1 Rule 10 CPC for impleading the earlier attorney of the petitioner as necessary party has been allowed.

2. Learned counsel for the petitioner has submitted that impleadment of Kuljinder Singh on an application filed by the respondents is not in accordance with law, inasmuch as, the said Kuljinder Singh was an attorney, who was acting on behalf of the petitioner. It is submitted that it cannot be said that the said person is a necessary party to the litigation and at best is only a proper party and thus, he should not have been impleaded



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under Order 1 Rule 10 CPC.

3. This Court has heard the learned counsel for the petitioner and has perused the paper book and finds that the impugned order is in accordance with law and the present petition being meritless, deserves to be dismissed for the reasons stated hereinbelow.

4. The Order 1 Rule 10 CPC sub rule (2), under which provision the abovesaid Kuljinder Singh has been impleaded, is reproduced hereinbelow:-

“(2) Court may strike out or add parties.- The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.”

A perusal of the abovesaid provision would show that the Court at any stage of the proceedings can order the impleadment of a person, who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary to enable the Court effectually and completely to adjudicate upon the case and settle all the questions involved in the suit.

5. In the present case, the respondents had filed an application under Section 13-B(3) of the East Punjab Urban Rent Restriction Act, 1949 for restoration of possession of first floor of House no.WG-495, Mohalla

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Suraj Ganj, Jalandhar, on 01.07.2023 (Annexure P-1). Paragraph 6 of the said application is reproduced hereinbelow:-

“6. That since the respondent has not returned back permanently to India against his stand taken in eviction application no.70 of 2009. The respondent no.2 states that the respondent no.1 has let out the first floor of the premises to him and present he is in possession of the first floor of the premises in question. The said respondent no.2 has also represented respondent no.1 as attorney in another civil suit titled as "Gurwinder Kaur Vs Santokh Singh Bassi" bearing civil suit no.CS-1926 of 2016, decided on 17.12.2022 by the Court of Ms. Jasmine, CJJD, Jalandhar. As such, present application has been filed for restoration of the possession of the first floor of house no.WG-495, Mohalla Suraj Ganj, Jalandhar to the applicants.”

A perusal of the above paragraph would show that the respondents, who had filed the application, had specifically averred that the present petitioner had not returned permanently to India, which is contrary to the stand taken in the eviction petition and that further the petitioner had let out the premises to “respondent no.2” (before the Rent Controller) and that “the said respondent no.2” had also represented the present petitioner as his attorney in another civil suit. From the abovesaid pleadings, it is apparent that in the main application, specific averments were made with respect to “respondent no.2”, who was stated by the present respondents to be Kuljinder Singh, but inadvertently in the memo of parties of the said application only one respondent i.e., the present petitioner was made a party and the said Kuljinder Singh, who was stated to be “respondent no.2” in the

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said application was not made a party. The said fact is also apparent from the fact that in the memo of parties, the word “respondents” has been used instead of the word “respondent”. In order to rectify the said defect, on 19.03.2024 an application under Order 1 Rule 10 CPC for impleading the said Kuljinder Singh was filed by the present respondents and in the said application, it was specifically stated that necessary pleadings with respect to the said person had already been made in the original application however inadvertently, he was not impleaded as a party. It was further stated that the said person was necessary for the proper and final adjudication of the case and his name had been left out due to a typographic mistake. The said application was opposed.

6. The trial Court vide order dated 06.11.2024 had allowed the said application and while allowing the said application, had observed that since the landlord/ present petitioner at the time of getting eviction on the ground of personal necessity had stated that he required the premises in question for his personal need, but it was the case of the respondents herein that the petitioner had not occupied the said premises and had rather let out the same to the said Kuljinder Singh and the facts regarding the same had also been mentioned in paragraph 6 of the original application and thus, the said Kuljinder Singh, who was actually in possession of the property in question as per the case of the present respondents, was a necessary party for the decision of the case.

7. From the abovesaid facts, it is apparent that the non-impleadment of Kuljinder Singh was apparently a typographical mistake



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and the same has been rectified by moving an application under Order 1 Rule 10 CPC. Moreover, this Court is of the opinion that the said Kuljinder Singh is a necessary party, inasmuch as, it is the case of the respondents-tenants for seeking restoration of the possession that the present petitioner, who is the landlord, had got an eviction order under Section 13-B of the Act, yet he has not occupied the same himself and has further given it to Kuljinder Singh and thus, it would be necessary to implead Kuljinder Singh and to seek his response to the case and the same would also help in finally and properly adjudicating the matter. Moreover, it is settled principal of law that the applicant is dominus litis and it is him, who has to choose as to who is to be made a party and since in the present case, the present respondents have made averments in the original application against Kuljinder Singh, thus, this Court finds no ground to interfere in the impugned order by virtue of which the said Kuljinder Singh has been impleaded as a party. Moreover, no prejudice would be caused to the petitioner, inasmuch as, the delay on account of the said impleadment, would primarily prejudice the respondents as it is the respondents who have filed the application for restoration of the possession.

8. Keeping in view the abovesaid facts and circumstances, the impugned order deserves to be upheld and the present petition being meritless, deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

February 06, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No