

03.12.2022 Present: Smt. C.K Thakur, Ld. Adv for petitioner.
Sh. Anil Kumar, Ld. Adv for respondent.
Sh. H.S Khadwal, Ld. Adv for applicants.

This order shall dispose of an application under Order 1 Rule 10 (2) CPC filed by the applicants Prem Adib son of Sh. Shankar Dass and Smt. Sudesh Kumari wife of Prem Adib for their impleadment as petitioners in the present petition and also for deletion of the name of petitioner Hoshiar Singh from the array of parties.

It is submitted in the application that present applicants Prem Adib and Sudesh Kumari are the owners/ landlords of tenanted shop which they have rented out to the respondent Gurmail Singh. It is pleaded that Municipal Committee Una has also imposed house tax of the tenanted shop on the applicants. It is further pleaded that a partition suit RBT No. 174/15/2000 was filed by the applicants for partition of land over which the tenanted shop exists. In the said civil suit, a preliminary decree for partition was passed on 23.09.2017, as such the applicants are owners/ landlords of tenanted shop. It is denied that the petitioner is the landlord of the tenant shop. It is therefore prayed that the present application be allowed.

The application has been resisted by the petitioner by filing reply, wherein it is vehemently denied that the applicants are owners or landlords of the tenanted shop. It is also denied that respondent was inducted as tenant by the applicants. It is alleged that the present application has been filed by the applicants in collusion with the respondent Gurmail Singh. It is denied that MC Una has imposed house tax on the applicants, as alleged. According to the petitioner, the tenanted shop was constructed by him in the year 1972 and electricity consumption charges thereof are also being regularly paid by the petitioner. It is pleaded that appeal against the preliminary decree of partial partition passed in favour of the applicants, is pending before the Court of Ld. District Judge, Una, as such the present application does not lie before this Court. Accordingly, dismissal of the application has been prayed for.

The respondents/ tenants Gurmail Singh and Naresh Kumar

have also filed reply to the instant application supporting the contention of the applicants.

No rejoinder has been filed.

I have heard Ld. Counsels for the parties and carefully perused the record.

By way of the present petition, the petitioner claiming himself to be the landlord of the tenanted shop seeks eviction of the respondents therefrom u/s. 14 (2) of HP Urban Rent Control Act, 1987. At the outset, it is pertinent to note that in petition for eviction of tenant under Urban Rent Control Act, the Rent Controller has to only prima facie see the relationship of landlord and tenant between the parties. It is rightly submitted by Ld. Counsel for the petitioner that question of title of the tenanted premises has to be decided by Civil Court and not by the Court of Rent Controller. Perusal of the averments made in the instant application would show that the applicants have filed the present application only on the basis of a preliminary decree for partition of the land underneath the tenanted shop, passed by the court of Ld. Senior Civil Judgment, Court No. I, Una on 23.09.2017 in Civil Suit RBT No. 174/15/2000. If it is so, then as per the admitted case of applicants, the petitioner Hoshiar Singh is also a cosharer of the land underneath the tenanted shop. It is not understandable as to on what basis the applicants are claiming themselves to be exclusive owners/ landlords of the tenanted shop. Even if it is presumed that house tax of tenanted shop was imposed on them by MC Una, still this fact does not by itself make them owners/ landlords of the tenanted shop. It is nowhere mentioned in the application that the tenanted shop was constructed by the applicants. According to the applicants, the respondent Gurmail Singh was inducted as tenant by them. This plea of the applicants is not supported by the respondents/ tenants in their reply either to the present application or to the main petition. Had the respondents/ tenants been inducted as tenants by the applicants, then this contention would have found mention in the reply to the main petition. As per the contents of the reply to the main petition, the

respondents/ tenants have pleaded that they have been regularly sending rent of the tenanted shop to the petitioner Hoshiar Singh. Meaning thereby, the respondents/ tenants are admitting the petitioner to be their landlord. So far as the passing of preliminary decree of partition in Civil Suit RBT No. 174/15/2000 in favour of applicants is concerned, the petitioner in his reply has specifically stated that appeal against the said preliminary decree for partition is still pending before the court of Ld. District Judge, Una. This fact has not been disputed by the applicants. So, in my considered view, the present application is not maintainable before this Court. Hence the present application is hereby dismissed. Application disposed of accordingly. Be registered and tagged.

Let PW's be summoned on taking steps within 15 days for 24.03.2023.

(Vivek Sharma)
Senior Civil Judge
District Una, H.P