

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

CR No.4310 of 2014 (O&M)

Date of Decision : 14.5.2015

Indertejpaul Singh

.....Petitioner

Versus

Raj Kumar and anr.

.....Respondents

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. Nitin Thatai, Advocate for the petitioner.

Mr. Sanjay Tangri, Advocate for the respondents.

GURMIT RAM, J.

This revision petition is filed by the petitioner (landlord) against the order dated 26.5.2014 passed by the learned Rent Controller, Ludhiana vide which the provisional rent qua the demised premises has been assessed.

2. Facts in brief are that the present petitioner has filed an ejectment petition seeking eviction of the tenants (respondents herein) from the demised premises which is now pending before the Rent Controller, Ludhiana. In the petition, it is mentioned that the demised premises was let out to the respondent No.1 on a monthly rent of Rs.7,000/- with a condition to increase the same @10% after every year. At present the rate of rent of the demised premises is stated to be Rs.10,248/- per month, besides the house tax and electricity charges. The

terms and conditions of the tenancy were reduced into writing vide an agreement dated 8.4.2008. The petitioner sought the ejectment of the respondents from the demised premises on the ground of non-payment of rent, subletting and ceased to occupy.

3. In the reply, both the respondents admitted the tenancy in question. It is also admitted by respondent No.2 that terms and conditions of the tenancy were reduced into writing on dated 8.4.2008. Respondent No.1 in reply has taken the plea that the alleged rent note is a forged and fabricated document. It is also his plea that rate of rent of demised premises is Rs.1,000/- per month.

4. The learned Rent Controller after hearing learned counsel for both the parties assessed the provisional rent @ Rs.1,000/- per month for the period from 1.1.2009 to 1.6.2014 vide the impugned order.

5. The petitioner-landlord feeling aggrieved from this order has come up in the instant revision petition, notice of which was given to the respondents.

6. I have heard the learned counsel for both the parties and have also gone through the record with their valuable assistance as available on the file.

7. As above discussed the tenancy is admitted by both the parties. It is also admitted by respondent No.2 that the terms and conditions of the tenancy were also reduced into writing. Only respondent No.1 in the reply had taken the plea that alleged rent note is forged and fabricated.

8. Learned counsel for the petitioner has contended that

the impugned order is not tenable in the eyes of law because the learned Rent Controller did not assign any reason while passing the impugned order by ignoring the rent note as pleaded by the petitioner-landlord. It is further his contention that for the purpose of assessing the provisional rent, the learned Rent Controller is to take into consideration all the records as well as pleadings of both the parties which are relevant at that time to decide this matter. In support of his contention, he has referred to a case law of this Court as laid down in CR No.2519 of 2013 titled as **Sahil Bhola Versus Ajay Kumar** decided on 22.4.2013. In this case, the Rent Controller assessed the provisional rent as per rent note. Revision filed by the tenant in this regard was dismissed. Then he has also cited another authority of this Court as laid down in **Bal Mukand Aggarwal Versus Sushma Mittal and others, 2015(1) RCR(Civil) 280** wherein in its para No.14, it has been held that the Rent Controller cannot travel beyond the pleadings and documents produced on file by either party while assessing provisional rent. The Rent Controller may ignore any document or pleadings not relevant while assessing the provisional rent by giving reasons.

9. On the other hand, learned counsel for the respondents has contended that the provisional rent as assessed by the Rent Controller is correct and no interference in the impugned order is required to be made as per the law. Then it is also his contention that provisional rent as assessed by the learned Rent Controller vide the impugned order is merely an interim one and not the final. In support of his contention, he has referred to an authority as laid down by Hon'ble

Apex Court in **Rakesh Wadhawan Versus M/s Jagdamba Industrial Corporation, 2002(2) Rent Law Reporter, 36.** But in this case law, it is not held as to how the provisional rent is to be assessed by the learned Rent Controller and what parameters are to be followed by the Rent Controller while doing so.

10. As per the respondents, the alleged rent note as pleaded by the petitioner-landlord is a forged and fabricated document, but respondents have not mentioned the circumstances in their written statement to hold that it is a forged and fabricated document. So the plea of the learned counsel for the respondents that the signature of the respondent No.1 was obtained on blank stamp paper by the petitioner on the plea to install electricity connection in his name in demised premises is held to be not tenable. Then the respondents have also failed to bring on record any documentary evidence to show that the alleged rent of the demised premises is Rs.1,000/- per month.

11. In the light of the above discussion, this revision petition is accepted and consequently the impugned order is set aside. The provisional rent of the demised premises is assessed to be Rs.7,000/- per month. The respondents are directed to pay the entire amount of the provisional rent at this rate of the period as mentioned in the ejectment petition within a period of one month from today along with interest @ 6% per annum and cost of the petition as assessed by the learned Rent Controller. Amount, if any, already paid by the respondents/tenants in the shape of provisional rent be adjusted.

Since the main revision petition has been disposed of,

the miscellaneous application, if any, also stands automatically disposed of having been rendered infructuous.

14.5.2015
Brij

(GURMIT RAM)
JUDGE

1. To be referred to the Reporters or not? Yes/No
2. Whether the judgment should be reported in the Digest? Yes/No