

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

CR No.6404 of 2015

Date of decision: 05.10.2015

Amritpal Singh

...Petitioner

versus

Prabhdeep Singh

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Baljinder Singh, Advocate,
for the petitioner.

RITU BAHRI, J.

Challenge in this petition is to the order dated 11.08.2015 passed by the Civil Judge (Junior Division), Ludhiana, whereby application filed by the plaintiff-petitioner under Order 15 Rule 5 CPC for striking off the defence of defendant-respondent, has been dismissed.

The parties are not in dispute that the present petitioner is landlord and the defendant-respondent is tenant. However, there is a dispute regarding rate of rent. Plaintiff is claiming rent at the rate of Rs.4000/- per month, whereas defendant-respondent states that the rate of rent was Rs.1000/- per month and he has deposited the entire rent in the account of the plaintiff.

As per the provisions of Order 15 Rule 5 (1) CPC, in a dispute between the lessor and lessee with regard to payment of rent, the Court may direct the tenant to pay arrears of rent and deposit such rent. In case of default in payment of rent, an order striking off the defence can be passed after serving due notice on the defendant.

In the present case, since the main dispute between the parties is with regard to payment of rent, which is Rs.4000/- or Rs.1000/- per month, the trial Court while exercising power under Order 15 Rule 5 (1) CPC, has dismissed the application on the ground that the defendant is depositing the rent at the rate of Rs.1000/- per month and the dispute with regard to correct rate of rent would be decided at the final stage of the trial. At this stage, defence of the defendant-respondent cannot be struck off.

It is not the case of plaintiff-petitioner that defendant-respondent has defaulted in payment of rent at the rate of Rs.1000/- per month. Therefore, the impugned order has been passed by the trial Court as per the provisions of Order 15 Rule 5 CPC and no ground is made out to interfere in the same.

Dismissed.

(RITU BAHRI)
JUDGE

05.10.2015
ajp