

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3056 of 2013 (O&M)

Date of Decision: 15.02.2016

Mohinderjit Singh Sethi and Another

... Petitioner(s)

Versus

Food Corporation of India and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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|----|---|------------|
| 1. | Whether reporters of local newspapers may be allowed to see judgment? | Yes |
| 2 | To be referred to reporters or not? | |
| 3 | Whether the judgment should be reported in the Digest? | Yes |

Present: Mr. Amit Sethi, Advocate
for the petitioner(s).

Mr. Sumeet Goel, Advocate
for respondents No.1 to 3.

Shekher Dhawan, J.

Present petition is challenge to the order dated 18.3.2013, passed by learned Civil Judge (Senior Division), Patiala, whereby application, moved by the petitioners under Section 151 CPC for striking out the defence of the respondents for non-compliance of the order of this Court dated 7.12.2012, was dismissed.

Relevant facts of the case that present petitioners are the owners of the godown, which were on rent with the respondents i.e. Food Corporation of India. The controversy was regarding payment of

rent and rate of rent. The matter was pending before this Court and vide order dated 7.12.2012, following order was passed by this Court:-

"This petition has been filed against an order declining the prayer of the petitioners to strike off the defence of the respondents.

The petitioners filed the instant suit for recovery of rent against the respondents in the year 1999. In that suit, an application under Order 5 Rule 15 of the CPC was filed for a direction to the respondents to deposit the rent. The trial Court noticed that the respondents had admitted that they had paid the rent @ ₹ 14,108/- for a period of one month from 1.9.1996 to 30.9.1996. The plea of the respondents was that in fact, they were not even liable to pay that much rent.

The trial Court, however, holding that the respondents had admitted this amount, directed them to provisionally deposit the rent at the above said rate for a period of three years preceding the suit and during the pendency of the suit. Thereafter, the petitioners moved an application alleging that the respondents had not paid the rent at the said rate and praying for striking off their defence, as mentioned above. Even today, there is dispute between the parties as to what was the amount of rent payable for different periods of time.

In view of this dispute on facts which would be

ultimately decided by the trial Court after evidence, I direct the respondents to deposit the rent @ ₹ 14,108/- per month for a period of three years preceding the suit till the date of vacation if already not deposited, within a period of one month. The said amount, if any, shall be put by the trial Court in a fixed deposit, to be handed over to the party found entitled thereto after the conclusion of the trial. It is made clear that in case it transpires that the due amount at the above mentioned rate is not deposited within the stipulated period, the defence of the respondents would be liable to be struck off. This petition stands disposed of accordingly.”

In compliance with that order, respondents deposited the rent, taking the rent as ₹ 14,108/- per month, after deducting tax at source, house tax, surcharge, repairs & maintenance etc. and net amount of rent was deposited. Learned counsel for the petitioners is aggrieved of the said order and took the plea that as per order of this Court, payment was to be deposited at the rate of ₹ 14,108/- per month and no deduction on account of house tax, repairs & maintenance charge and income-tax etc. could be made and as such defence of the respondents is liable to be struck down.

Learned counsel for the respondents took the plea that earlier also, these objections were being made when the payment was being released to the present petitioners. However, now the petitioners

are aggrieved because their godowns have been released by the respondent corporation. Otherwise, the total amount, whichever was due towards the petitioners, taking the payment at the rate of ₹ 14,108/- per month, was deposited and there is no question of any non-compliance of the Court order and the application has rightly been dismissed.

Having considered the submissions made by learned counsel for the parties and the controversy involved in this case, this Court is of the considered view that as per order passed by this Court on 7.12.2002 in Civil Revision No. 5027 of 2008, respondents have already deposited the amount taking the rate of rent to be ₹ 14,108/- per month for a period of three years preceding the suit till the date the entire payment was released after adjusting the recovery in lieu of income-tax, repairs of godown, installation of hand pump and the Court below has rightly observed that the total amount has been released to the petitioner and the rate of rent has been taken to be ₹ 14,108/- per month and there was no such order of this Court that respondents could not effect the necessary deductions for which they were entitled to and as such there was no question of striking out the defence of the respondents. There is absolutely no illegality in the order dated 18.3.2013 passed by learned Civil Judge (Senior Division), Patiala and present petition stands dismissed.

(Shekher Dhawan)
Judge

February 15, 2016

"DK"