

CR No. 4505 of 2016 (O&M)

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

CR No. 4505 of 2016 (O&M)

Date of Decision: August 08, 2016

Brijesh & another

...Petitioners

Versus

Rekha Saini

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ram Kumar Saini, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (Oral):

Notice of motion.

2. Mr. Vaibhav Sehgal, Advocate, accepts notice on behalf of the
the respondent.

3. Challenge in this revision petition is to the order dated
20.05.2016 passed by the Appellate Authority, whereby, the order dated
18.08.2015 passed by the Rent Controller, Hisar, vide which the provisional
rent was assessed at the rate of ₹ 3,000/- per month, has been modified and
the provisional rent has been reduced to ₹ 1,200/- per month payable from
01.11.2014 onwards alongwith cost and interest.

4. It is the contention of the learned counsel for the petitioners
that the impugned order dated 20.05.2016 passed by the Appellate
Authority is not sustainable as the petitioners had disputed the rent note as
produced by the respondent as also the receipts on the basis of which he
was claiming that the rent has been paid upto 31.10.2014. He contends that

while assessing the provisional rent, the area where the demised premises is located and the prevalent market rent was to be taken into consideration which has rightly been taken note of by the Rent Controller, while passing the order dated 18.08.2015. Assertion has also been made that although the petitioners had claimed rent at the rate of ₹ 10,000/- per month but the Rent Controller has already reduced it to ₹ 3,000/- per month which is just and reasonable and therefore, did not call for any interference by the Appellate Authority. He, thus, contends that the impugned order cannot sustain and deserves to be set aside.

5. On the other hand, counsel for the respondent, submits that the Appellate Authority has rightly relied upon the rent note which has been produced by the respondent as also the receipts showing the payment of rent at the rate of ₹ 1,200/- per month. He contends that as per the rent note, there is a clause for enhancement of rent but since the period of such enhancement to be applicable had not expired, therefore, the Appellate Authority has rightly proceeded to fix the rent as per the rent note and the receipts which have been produced. He asserts that as regard the denial of the rent note and the receipts of the same, is a matter of evidence to be gone into by the Rent Controller after the parties lead their respective evidence. He, therefore, contends that the impugned order being in accordance with law, does not call for any interference by this Court.

6. I have considered the submissions made by the counsel for the parties and with their able assistance, have gone through the impugned order but do not find myself in agreement with the contentions made by the counsel for the petitioners.

7. It is not in dispute that rent note has been produced by the respondent although the authenticity thereof has been disputed by the petitioners. Similar is the position with regard to the receipts which have been produced by the respondent. The observation of the Appellate Authority that the primary evidence which is available at this stage on record are the rent note and the receipts of payment of rent which have been taken into consideration for assessing the provisional rent although the authenticity of the documents relied upon i.e. rent note and receipts is a matter of evidence to be led and proved by the parties. The principle on the basis of which the said order has been passed being in accordance with law does not call for any interference by this Court. The provisional assessment of rent at the rate of ₹ 1,200/- per month by the Appellate Authority is fully justified and therefore, is upheld. The impugned order, therefore, does not call for any interference by this Court and the revision petition stands dismissed.

CM No.13915-CII of 2016

In view of the order passed in the main revision petition, no order is required to be passed in the present application for staying the operation of the impugned order as the same has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

August 08, 2016
Harish

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No