

CR No. 6620 of 2014 (O&M)

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

CR No. 6620 of 2014 (O&M)

Date of Decision: April 21, 2016

Ram Sudhar

...Petitioner

Versus

Som Parkash

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjeev Maini, Advocate for
Mr. Sanjeev Gupta, Advocate
for the petitioner.

Mr. N.K. Bansal, Advocate
for the respondent.

AUGUSTINE GEORGE MASIH, J. (Oral):

It is the contention of the learned counsel for the petitioner that while deciding the appeal, the Appellate Authority in its impugned order dated 20.08.2014, has not decided the application for additional evidence filed by the petitioner-tenant. He contends that because of non-decision of the application, the petitioner has been prejudiced. He submits that the matter requires to be remanded back to the Appellate Authority for decision on the application for additional evidence and the appeal on merits afresh in the light of the decision in the application for additional evidence. In support of this contention, he places reliance upon the judgments of the Supreme

Court in **Jatinder Singh and another minor through mother Vs.**

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Mehar Singh and others, 2009 (1) R.C.R. (Civil) 253 and Malayalam Plantations Ltd. Vs. State of Kerala & another, 2011 AIR (SC) 559.

Counsel for the respondent although has contended that no prejudice actually has been caused because of non-decision of the application for additional evidence as filed by the petitioner. He further states that the same was not pressed in the light of the reply which has been filed at the time when the main appeal was being argued and disposed of. He, thus, contends that prayer made by the counsel for the petitioner deserves rejection.

I have considered the submissions made by the learned counsel for the parties but do not find myself in agreement with the assertions of the counsel for the respondent in the light of the judgments of the Supreme Court in *Jatinder Singh's* case (supra) and *Malayalam Plantations'* case (supra)

In view of the judgments referred to above, the impugned order dated 20.08.2014 passed by the Appellate Authority, Chandigarh, is hereby set aside. The matter is remanded back to the Appellate Authority, Chandigarh, for decision on the application for additional evidence as filed by the petitioner and for fresh decision of the appeal on merits after the decision of the application for additional evidence.

The parties to appear before the Appellate Authority,

Chandigarh, on 05.05.2016. The Appellate Authority shall decide the application for additional evidence as filed by the petitioner as early as possible and in any case, within a period of two months from the date of appearance of the parties before the said authority. The appeal shall be decided within a period of two months from the date of decision of the application for additional evidence.

It is not in dispute that the *mesne profits* as assessed by the Appellate Authority was ₹10,000/- per month for the demised premises. Counsel for the petitioner has very fairly stated that after the dismissal of the appeal by the Appellate Authority on 20.08.2014, the rent which has been deposited with the Rent Controller, Chandigarh, is at the rate of ₹2,000/- per month which was initial rent amount. Counsel for the respondent states that at least, the amount which was assessed by the Appellate Authority as *mesne profits* should be ordered to be deposited by the petitioner during the pendency of this revision petition and during the pendency of appeal before the Appellate Authority after remand.

In view of the above, direction is issued to the petitioner to deposit the arrears of *mesne profits* at the rate of ₹10,000/- per month with effect from August, 2014, within a period of one month from today. It is clarified that the amount of ₹2,000/- per month which has been deposited by the petitioner, if any, shall be adjusted in the arrears to be deposited by him. In case the amount of arrears is not deposited with the Rent Controller within the time specified above,

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the appeal shall automatically stand dismissed. The future *mesne profits* will be deposited by the petitioner on or before 7th of each month before the Rent Controller, Chandigarh.

All the pending misc. applications shall stand disposed of.

April 21, 2016
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE