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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

122 **CR No.2427 of 2017 (O&M)**
Date of decision: 03.04.2017

Manjit Singh & another ....Petitioners

Versus

Sunita Sood & another ...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.N.K.Vadehra, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral)

The present revision petition, filed by the petitioner-tenant, is directed against the order dated 03.02.2017 (Annexure P3), whereby provisional rent has been assessed @ Rs.17,000/- per month and the case was fixed for 14.03.2017, for depositing the arrears of rent from 01.06.2013 to February, 2017, i.e., for 45 months along with interest and costs.

The appeal filed against the said order, dated 03.02.2017 has also been dismissed on 16.03.2017 (Annexure P4), whereby it has been noticed that the premises in question, as per the site-plan, is a double storey building having 3 bedrooms, drawing room, kitchen etc, in Ludhiana and therefore, the claim by the tenant that the rent was Rs.2000/- per month *inter se* and that it was wrongly assessed at Rs.17,000/-, had been rejected.

Counsel for petitioner has relied upon ***Sardar Amar Singh VS. Smt. Surinder Kaur 1976 RCR (Rent) 47***, ***Choeth Ram Vs. Shri Deep Chand Jain & another 1977 (1) RCR (Rent) 499***, ***Satish Chand Makhan & others Vs. Goverdhan Dass Byas & others 1984 (1) RCR (Rent) 264***, ***Ram Kumar Khanna Vs. Rajiv Garg 1989 (1) RCR (Rent) 645***, ***Harbans Lal Vs. Kishan Chand 2000 (1) RCR (Rent) 634***, ***Adarsh P.Jauhar Vs. Gulshan Jain & others 2014 (5) RCR (Civil) 918*** and ***Vishal N.Kalsaria Vs. Bank of India & others 2016 (1) RCR (Rent) 81***, to show that the rent

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deeds upon which claim of eviction had been raised were not registered and unsigned and therefore, the claim for the rent at Rs.17,000/- was not justified.

A perusal of the eviction petition, instituted on 19.08.2015, would go on to show that there was reference to a lease deed of 11 months dated 20.08.2012. Thereafter, a fresh lease deed had been executed on 28.07.2013. There were allegations of sub-letting, as such and therefore, the claim had been made from 01.06.2013, apart from the fact that there were arrears of electricity bills, water and sewerage charges etc.

In the defence, the petitioners admitted that the premises were taken on 01.09.2012 but the plea taken was that the monthly rent was Rs.2000/-, which had been duly paid but no rent receipt had been issued. The alleged rent deeds were denied and it was alleged that they were forged and fabricated documents and not admissible in evidence, as per Section 49 of the Registration Act, 1908. The relationship of the husband of the landlady as landlord-tenant was denied and only the relationship was that of the landlady with the present petitioners.

On the basis of the said documents, the Rent Controller noted that the rent deed was signed by petitioner No.1-Manjit Singh. Accordingly, on the basis of the fact that the present petitioner had denied the execution of the rent deeds but had claimed their possession as tenants and whether the rent deeds were admissible or not, it was held, while placing reliance upon ***Anita Dhillon Vs. Ujaldeep Singh***

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Samundari 2014 (1) RCR (Rent) 412 that one of the rent deeds was for 11 months and not compulsorily registrable. Reliance was also placed upon ***Udai Singh Vs. Dhara Singh 2014 (1) PLR 604***, to that extent. Resultantly, the provisional rent had been assessed at Rs.17,000/- per month, relying upon ***Brijesh & another Vs. Rekha Saini 2016 (3) Law Herald (P&H) 2702***.

The Appellate Authority has noticed that the lease deeds are for a period of less than 1 year and that the parties are yet to lead their evidence as to whether the lease deeds are forged or fabricated or not and whether they are valid and legal. Resultantly, the view taken by the Rent Controller was upheld and the appeal was dismissed vide order dated 16.03.2017 (Annexure P4).

The judgments which have been relied upon by counsel for the petitioners, do not pertain to provisional assessment. The law has been laid down by the Apex Court in ***Rakesh Wadhawan Vs. M/s. Jagdamba Industrial Corporation, 2002 (1) RCR (Rent) 514*** wherein it has been held that at the stage of provisional assessment, the Rent Controller is only to go into the material which is on the basis of the documents placed on record, as per the case. It is to be noticed that the landlord has placed on record 2 rent deeds and the Rent Controller has noticed that the tenant has signed on the same. No rent deed has been placed on record by the petitioner-tenants and accordingly, an adverse inference is to be drawn against them. In **Rakesh Wadhawan** (supra), it has been further held that the amount in excess which has been received

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by the landlord, will be refunded in case the matter is found, at the final stage, as such, in favour of the tenant. Accordingly, in such circumstances, the argument which is being raised, is without any basis as no material has been brought on record in the form of rent receipts or that the same were ever signed by the landlady, to substantiate the defence which has been taken that the rate of rent was not Rs.17,000/- but it was Rs.2000/- and a smoke-screen is being created, just to delay the payment.

Accordingly, the present revision petition is, hereby, dismissed. Needless to say that any observation made herein is only for the purpose of deciding the present revision petition and shall not affect the merits of the case, at the time of final hearing.

03.04.2017 **(G.S. SANDHAWALIA)**
Sailesh **JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No