

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

CR No.2982 of 2015(O&M)

Date of Decision:-28.08.2017

Jordan Masih.

.....Petitioner.

Versus

Ajmer Masih.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Jaideep Verma, Advocate for the Petitioner.

Mr. Yogesh Goel, Advocate for the Respondent.

JASWANT SINGH, J (ORAL)

Petitioner (tenant) is in revision against the order dated 09.04.2015 passed by Rent Controller, Ludhiana, whereby assessment of provisional rent has been made and the tenant has been directed to deposit the arrears of provisional rent to the tune of Rs.1,22,875/-.

Learned Counsel for the petitioner (tenant) has argued that no doubt the petitioner was inducted as tenant by the respondent vide Rent Note dated 16.07.2011 at the rate of Rs.2500/- per month as rent with house tax, however, in view of the fact that the respondent was no longer the owner of the property, the relationship of landlord and tenant was denied in the written statement. It is further argued that United

Church of Northern India Trust Association was recorded as owner of the demised premises and, therefore, a fresh lease deed dated 13.05.2013 was got executed between the petitioner (tenant) and one Ludhiana Church Council, who was authorised by UCNI. In these facts, the provisional rent was not required to be assessed and hence the impugned order is liable to be set aside.

On the other hand learned Counsel for the respondent submits that in the light of the admitted position that the petitioner was inducted by the respondent vide a written note, therefore, he is barred to deny the relationship in view of the provisions of Section 116 of the Indian Evidence Act, 1872. He further submits that the present revision itself is not maintainable as the alternative remedy of appeal is provided under Section 15(1)(b) of The East Punjab Urban Rent Restriction Act, 1949, as the impugned order has been passed under Section 13 of the Act by the Rent Controller.

After hearing learned Counsel for the parties, this Court finds no merit in the present revision petition. In the rent proceedings, the relationship of landlord and tenant and the admitted rent has to be seen at the stage of assessment of provisional rent in eviction sought, *inter alia*, on ground of non payment of rent. In the written statement as also factually it is admitted that the petitioner had been inducted by the respondent as a tenant. The question of ownership, if any, is not relevant for the tenant as regards payment of rent. The tenant of an immovable property, like the present petitioner, is estopped from denying the relationship of landlord in view of the provisions of

Section 116 of the Indian Evidence Act. The question of remanding the petitioner to seek alternative remedy would not be, at this stage advisable as the matter before this Court has already been pending for the last more than two years.

In view of the above, no illegality or perversity is found in the impugned order warranting interference by this Court.

Dismissed.

(JASWANT SINGH)
JUDGE

August 28, 2017

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>