

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

**Civil Revision No.4851 of 2016 (O&M)
Date of Decision: 20.11.2017**

Jaswinder Singh and another

..... Petitioners

Versus

Mewa Singh Lidher

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Bhupinder Ghai, Advocate for the petitioners/tenants.

Mr. Rajinder Goyal, Advocate for the respondent/landlord.

JASWANT SINGH, J. (ORAL)

The tenants are in revision directed against the order dated 15.07.2016 (**Annexure P-11**), passed by learned Appellate Authority, SAS Nagar, Mohali, whereby the *ex parte* stay of the order dated 17.11.2014 (**Annexure P-4**), passed by learned Rent Controller, Mohali whereby the provisional assessment of rent at the rate of Rs.13,000/- per month for the period 01.06.2011 till 17.11.2014 was directed to be paid by 18.12.2014, has been ordered to be vacated for non-compliance of the deposit of the provisional assessed rent at the reduced rate in compliance of the interim order dated 17.12.2014 (**Annexure P-5**), passed by this Court and order dated 24.05.2016 (**Annexure P-10**), passed by learned Appellate Authority, SAS Nagar, Mohali, during the pendency of the appeal before the Appellate Authority against the order dated 17.11.2014 (**P-4**).

Learned Counsel for the parties heard at length.

It is not in dispute that the petitioners/tenants were inducted by the respondent/landlord in the demised Booth No.26, (Ground Floor and Basement), Phase-1, SAS Nagar, Mohali. The eviction petition was filed by the landlord on the ground of non-payment of rent w.e.f. 01.06.2011 till the date of filing of the eviction petition, claiming that the rate of rent was ₹ 13,000/- per month based upon the Rent Agreement(s). The tenants admitted the relationship of the landlord and tenants, however, contested the claimed rate of rent. It was asserted that the rent was at the rate of ₹ 6500/- per month. The Rent Controller, Mohali, vide order dated 17.11.2014 (**P-4**), provisionally assessed the arrears of rent by adopting the rate of rent asserted by the landlord i.e. ₹ 13,000/- per month. It was ordered that a sum of ₹ 6,06,695/- was required to be paid by the tenants by 18.12.2014.

The tenants filed Civil Revision No.8579 of 2014, assailing the aforesaid order (**P-4**), wherein vide interim order dated 17.12.2014 (**Annexure P-5**), the following order was passed:-

“ *Heard.*

Learned counsel for revision petitioners submits that the rate of rent settled in between the parties was earlier ₹3,500 which was later enhanced to ₹5,000. The copy of statement of account showing deposit of rent through cheques was placed before the Rent Controller but was not looked into. He has relied upon the income tax return submitted by the respondent-landlord showing the rate of rent as ₹5,000. He has further submitted that rent upto November, 2014 @ ₹5,000 per month has already been deposited.

Notice of motion for 10.02.2015.

As the question of rate of rent, as per pleadings of parties and documents on file, requires to be looked into, the revision petitioner may tender 50% of the assessed rent on 18.12.2014 and in the event of payment of 50% of the assessed rent being made in addition to the deposits of rent already made till date, the operation of order of Rent Controller shall remain stayed till next date. A copy of this order be given to the counsel for the petitioners under the signature of Court Secretary. ”

(Emphasis supplied)

Subsequently, the petitioners/tenants were relegated to avail the alternative remedy of appeal vide order dated 17.05.2016 (**Annexure P-9**), whereby the revision petition was withdrawn with liberty to the tenants to file the appeal and the interim order dated 17.12.2014 was to operate till the fresh consideration by the Appellate Authority.

Admittedly, the appeal was filed and an interim order dated 24.05.2016 (**P-10**) was passed by learned Appellate Authority, SAS Nagar, Mohali, whereby the impugned order dated 17.11.2014 (**P-4**), passed by the Rent Controller, Mohali was stayed subject to the same conditions as incorporated in the order dated 17.12.2014 (**P-5**) (reproduced hereabove in CR No.8579 of 2014, passed by this Court).

The dispute between the parties is that the landlord asserts that the payment of provisionally assessed arrears of rent have not been made in terms of the conditional order dated 17.12.2014 (**P-5**), passed by this Court, whereas the tenants claim that the amounts due, in terms of the aforesaid order, stand paid. The Appellate Authority, Mohali, vide impugned order dated 15.07.2016 (**P-11**) has, however, passed an order in favour of the landlord, stating that the interim directions have not been complied with, however, has not given details of the payment and thus, the violation was made.

A perusal of the aforesaid reproduced order leaves no matter of doubt that the tenants were required to pay 50% of the provisionally assessed rent on 18.12.2014, meaning thereby 50% of the total assessed amount of ₹ 6,06,695/-, in addition to any amount already deposited by that date in compliance of the order. It is not disputed that the tenants had paid a sum of ₹ 2,85,000/- in terms of the order 17.11.2014 (**P-4**) and, therefore, in terms of the order dated 17.12.2014 (**P-5**), the tenants were required to pay a sum of ₹ 3,03,347/- (approx.) in addition

to ₹ 2,85,000/- already deposited. Whether this payment was factually made on 18.12.2014 by the tenants or not is not clear from the facts on record. Even the passing of the subsequent order dated 24.05.2016 (P-10) had reinforced the conditions imposed in the order dated 17.12.2014 (P-5). No clarification of any kind was sought by the tenant.

Accordingly, learned Counsel for the parties are agreed that this is the question to be redetermined by learned Appellate Authority, Mohali, upon evaluation of material placed on record by the parties, as from the impugned order dated 15.07.2016 (P-11), the reasons are not forthcoming.

In view of the above, the impugned order dated 15.07.2016 (P-11) is set aside and learned Appellate Authority, Mohali is directed to pass a fresh order within four weeks from the next date of hearing fixed before learned Appellate Authority, Mohali.

Disposed of accordingly.

November 20, 2017
Gagan

(JASWANT SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No