

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

CR No.8544 of 2016 (O&M)
Date of decision: 13.01.2017

Ramesh GoelPetitioner
Versus
Suman ...Respondent

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

Present: Mr.Arun Singal, Advocate, for the petitioner.

Mr.Divanshu Jain, Advocate, for the respondent.

G.S. SANDHAWALIA, J. (Oral)

CM-46-CII-2017

Application for placing on record affidavit along with list of documents as Annexures P3 & P4, respectively, is allowed. Said documents are taken on record.

Main case

Notice of motion.

Mr.Divanshu Jain, Advocate, who is present in Court, accepts notice on behalf of the respondent.

Petitioner-tenant is aggrieved against the provisional assessment of the rent at Rs.9000/- per month of the premises in question, by the Rent Controller, Panipat on 17.09.2016. Vide the said order, apart from the provisional rent, 6% interest and cost of Rs.1000/-, was assessed for the period from 01.04.2013 to 28.02.2016, total amounting to Rs.3,34,900/- and the case was adjourned to 14.10.2016, for payment of rent. An appeal was filed against the said order by the petitioner-tenant.

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It is not disputed that the Appellate Authority had granted stay, as such and therefore, the payment has not been made. The Appellate Authority has also dismissed the appeal vide the impugned order dated 15.11.2016. Both the authorities below have assessed the rent on the basis of the affidavits of the tenants of other shops in the locality whereby the rents were falling between Rs.10,000/- to Rs.11,000/- per month.

In view of the fact that there was no written rent deed between the parties, counsel for the petitioner has placed on record the list of documents which were filed before the Appellate Authority, i.e., photocopies of the house tax for the year 2016-17, income tax return for the year 2014-15. It is the case of counsel for the petitioner that the rent was Rs.3000/- and admittedly, even as per the pleadings of the landlady, no rent agreement was executed between the parties. Reference has been made to the income tax return, to show that the petitioner-Ramesh Goyal, is running the business of garments in the shop in question and in his return for the assessment year 2014-15 (Annexure P2) has shown the rent paid for the said shop at Rs.36,000/-, for the year ending 31.03.2014. Reference has also been made to the property tax (Annexure P1) to submit that the annual property tax was Rs.594/- for the 300 sq.ft. area and there were three shops in the said premises.

Keeping in view the above facts, this Court is of the opinion that sufficient material, as such, *inter se* the parties, to record a finding as to what was the rent agreed between the parties had been placed before the Appellate Authority. In such circumstances, the affidavits of the tenants of

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the adjoining shops *prima facie* would not be the safe barometer to assess the provisional rent, which has been done in the present case. According, keeping in view the fact that sufficient documents were there but have not been referred to, this Court is of the opinion that the matter is liable to be remanded to the Appellate Authority for fresh decision in the appeal on the said aspect.

The argument raised by counsel for the respondent-landlady that the rent was to be paid within a time-bound frame but it was not paid on 22.12.2016 when the matter was fixed before the Rent Controller, for further proceedings, is without any basis. This Court has been approached expeditiously on 12.12.2016 and the case had been listed for the first time on 20.12.2016. The matter had, thereafter, been adjourned to place additional documents on record.

Accordingly, the present revision petition is allowed. The order dated 15.11.2016, passed by the Appellate Authority is set aside and the matter is remanded to the Appellate Authority, Panipat, for fresh decision. It will also be open to the parties to place additional documents on record in support of their submissions for the purpose of fixation of provisional rent. Parties shall put in appearance before the said forum on 23.01.2017.

January 13th, 2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

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