

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

281

CR-1809-2018 (O&M)

Date of decision: 06.12.2018

VEENA SAGAR AND ANR

...Petitioners

Versus

INDERJIT AND OTHERS

...Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Arun Jain, Sr. Advocate with
Mr. Varun Parkash, Advocate for the petitioners.

Mr. Anil Chawla, Advocate
for the respondents.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 18.01.2018 passed by the Appellate Authority, Amritsar whereby appeal preferred by the petitioners against order of ejectment dated 07.07.2015 was dismissed and the eviction order has been affirmed.

A relevant extract from order dated 17.04.2018 passed by this Court, reads as follows:-

“Counsel for the petitioners, inter alia, contends that the petitioners examined witnesses RW2 to RW5 besides testimony of petitioner Veena Sagar to say that Inderjit-respondent is running his business in the adjoining property but neither the Rent Controller nor Appellate Authority have adverted to evidence of RW2 to RW5. Another submission made by counsel is that the petitioners filed two applications under Order 41, Rule 27 of the Code of Civil Procedure for adducing additional evidence but in regard thereto a report has been made by the office of District Judge, Amritsar dated 22.02.2018 that no order was passed in applications dated 02.05.2016 and 06.12.2016. It is argued with vehemence that the order passed by the appellate Authority is liable to be set aside on the sole ground that applications for additional evidence filed by the petitioners were not decided despite notice of these applications to the contesting party and reply thereto having been submitted by the respondent/landlord.

Notice of motion to respondent No. 1 for 22.05.2018.

In the meantime, operation of eviction order shall remain stayed but subject to condition that the petitioners shall deposit arrears of rent/mesne profits (if any fixed by the appellate Authority) with the Rent Controller within a period of fifteen days and subsequent rent/mesne profits by the 7th of each calendar month, failing which the stay granted by this Court shall be deemed to be vacated.”

Counsel for the respondents would state that the petition may be disposed of and the matter may be remitted to the Appellate Authority for decision of the appeal afresh and application(s) for additional evidence, in view of facts noticed in the order of notice of motion.

In view of the above, petition is disposed of; order dated 18.01.2018 passed by the Appellate Authority is set aside and the matter is remitted to Sh. Vinod Kumar Goyal, Appellate Authority, Amritsar or successor of the said Court for decision of the appeal afresh by disposing of applications for additional evidence as well. The parties through their counsel are directed to appear before the Appellate Authority on 20.12.2018. The Appellate Authority is directed to dispose of the appeal within three months of the parties putting in appearance.

06.12.2018

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No