

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121

CR No.1872 of 2017 (O&M)

Date of decision: 20.03.2018

Sukhraj Singh

..... Petitioner

Versus

Deesha Mahi

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vikas Bali, Advocate
for the petitioner.

Mr. G.S. Gandhi, Advocate
for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Defendant-petitioner is in the revision petition against the order passed by the learned Civil Judge (Jr. Divn.), Jalandhar dated 03.01.2017 directing the defendant-petitioner to pay an amount of Rs.2500/- as mesne profit along with interest @ 6% per annum from July, 2011.

Plaintiff claims to be the owner of the property. He claims that initially he filed the eviction proceedings against the defendant before the Rent Controller, however, an objection was taken that since the property is situated outside the urban area, therefore, the proceedings under the Rent Act would not be maintainable. Hence, the plaintiff withdrew the aforesaid proceedings and filed this suit for possession. Plaintiff has pleaded that the defendant is her tenant on the ground floor. It is the case of the plaintiff that the settled rate of rent between the parties is Rs.5,000/- per month. On the

other hand, the defendant-petitioner pleaded that in fact the rate of rent is Rs.2500/- per month. The defendant-petitioner has further pleaded that he has been regularly paying the rent. During the pendency of the suit, the plaintiff filed an application for direction to the defendant to pay an amount of Rs.2,17,000/- along with interest. Reply was filed by the defendant-petitioner.

Learned trial Court after appreciating the evidence available on the file and after noticing that the defendant has not produced any receipt of payment of the alleged rent, directed payment of the amount of Rs.2,500/- per month from July, 2011.

It is not in dispute that the defendant-petitioner is in possession of the premises and he himself has admitted that rate of rent agreed between the parties was Rs.2,500/-. Such being the position, in the considered opinion of this Court, learned trial Court has not committed any error in directing the payment of the amount as mesne profit for use and occupation of the premises. The defendant cannot be permitted to occupy the property without payment of use and occupation charges i.e. mesne profit.

In view thereof, there is no scope for interference in the order passed by the Court.

Revision petition is dismissed.

20.03.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No