

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

DIWAKER GULATI
2018.10.04 11:53

CR No.2302 of 2018(O&M)

Date of decision: 28.9.2018

Jaspal Singh

.....Petitioner

VERSUS

Madan Lal Sharma

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Ms. Adrija Das, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against order dated 12.12.2017 passed by the Appellate Authority, Gurdaspur whereby findings of the Rent Controller accepting plea of the petitioner-landlord with regard to rate of rent @ Rs.12,500/- per month as against claim of the respondent/tenant that rate is Rs.6500/- per month have been set aside and rate of rent has been held to be Rs.6500/- per month and consequently, eviction of the respondent on the ground of arrears of rent to the tune of Rs.8,41,612.5p has been rejected.

Plea of the petitioner is that rate of rent of the tenancy premises is Rs.12,500/- per month and the respondent has not paid rent with effect from February, 2010. On the contrary, it has been averred by the respondent/tenant that initially tenancy was created at the rate of Rs.3750/- per month but later the same was enhanced to Rs.6500/- per month.

The Rent Controller assessed provisional rent at the rate of Rs.6500/- per month with effect from February, 2010 onwards till 23.09.2014 amounting to Rs.3,79,450/-, tendered by the respondent/tenant.

The Rent Controller, by taking into consideration statement of the respondent that rate of rent of the adjoining shop is Rs.15000/- per month coupled with his plea that rent at one point of time was enhanced from Rs.3750/- to Rs.6500/- per month has held that it can safely be inferred that after the first enhancement, second enhancement might have taken place qua rent from Rs.6500/- to Rs.12,500/- per month. It is surprising rather shocking that the Rent Controller assessed rate of rent at Rs.12,500/- per month on the basis of inference, presumption and assumption. It appears that the Rent Controller has forgotten whether it was deciding a factual controversy qua rate of rent of the disputed premises or mesne profits to be assessed in rent proceedings by the Appellate Authority or Revisional Authority. On the contrary, the Appellate Authority has rightly taken into consideration admission by the petitioner/landlord that rate of rent of the shop in question is Rs.6500/- per month. The Rent Controller, for the reasons best known, did not take note of this admission of the landlord while determining rent at the rate of Rs.12,500/- per month. In this view of the matter, I do not find an error much less illegality in order passed by the Appellate Authority upholding plea of the respondent/tenant that rate of rent is Rs.6500/- per month, therefore, the respondent is not in arrears of rent after payment of provisional rent assessed by the Rent Controller.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

SEPTEMBER 28, 2018

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no