

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

**CR No.2340 of 2019(O&M)
Date of Decision: 03.05.2019**

Karnail Singh

....Petitioner

Versus

Mada Lal land another

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. R.S. Bajaj, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner is aggrieved of order dated 29.03.2019 passed by Civil Judge (Junior Division), Jalandhar vide which application filed by the petitioner for issuance of necessary direction to respondent No.1 for depositing the amount for use and occupation charges of shop Nos.2 and 3 was dismissed.

[2]. Respondent No.1 claimed himself to be tenant under the petitioner. According to the petitioner, plaintiff has deposited use and occupation charges @ Rs.17,088/- per month for the period from October 2015 to March 2016 amounting to Rs.1,02,528/-. In respect of encroached portion, plaintiff has deposited @ Rs.8544/- per month from October 2015 to March 2016. The aforesaid amount has been withdrawn by the petitioner. Thereafter, the plaintiff has not deposited anything

with regard to use and occupation charges of shop Nos.2 and 3 except an amount of Rs.52,000/- which was tendered by the plaintiff on 18.01.2019. According to the plaintiff, plaintiff has also deposited the use and occupation charges of the encroached portion from September 2016 to October 2018 and has paid an amount of Rs.52,000/- for the month of November 2018 to February 2019 for shop Nos.2 and 3. For the remaining period till date, the plaintiff has not deposited anything towards use and occupation charges of shop Nos.2 and 3 and encroached portion.

[3]. Precisely, for the grievance, the application was filed before the trial Court. Trial Court has dismissed the same vide the impugned order on the premise that earlier the defendant/petitioner had filed an application for dismissal of the suit on the basis of same ground and the said application was dismissed on 12.02.2019 and after dismissal of the said application, the present application came to be filed.

[4]. Notice of motion was issued after noticing the fact that in CR No.2319 of 2016, interim order was granted on 27.04.2016 and thereafter, the same was vacated by the High Court on 19.09.2017. At the time of issuance of notice of motion, plaintiff/respondent No.1 was directed to deposit an amount of Rs.6000/- for shop No.2 and Rs.7000/- for shop No.3 towards

use and occupation charges. After vacation of the said order, CR No.2319 of 2016 was disposed of vide order dated 05.04.2018 with a direction to the trial Court to decide the suit within a period of one year after affording three effective opportunities to the parties to conclude their evidence. The entire amount towards arrears of use and occupation charges of shops as well as encroached portion has not been deposited till date.

[5]. As per office report, service has been duly effected, but none has appeared to represent the cause of the respondents. It appears from the record that suit has reached the stage of plaintiff evidence.

[6]. This revision petition is disposed of with a direction to the trial Court to pass appropriate order for deposit of arrears of use and occupation charges of shop Nos.2 and 3 and encroached portion. In case of any default, trial Court would be well within its jurisdiction to draw adverse inference against respondent No.1. Necessary consequence of aforesaid observations would be to annul the impugned order.

03.05.2019

Prince

**(RAJ MOHAN SINGH)
JUDGE**

**Whether reasoned/speaking
Whether reportable**

**Yes/No
Yes/No**