

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

**CR-6633-2019 (O&M)
Date of Decision : 19.12.2019**

Jagdish Parshad Petitioner
Versus

Satwant Singh and another Respondents

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present : Mr. R.K.Handa, Advocate
for Mr. Vishal Sharma (Vasudeva), Advocate
for the petitioner.

RAMENDRA JAIN, J. (Oral)

Through this civil revision under Article 227 of the constitution of India, petitioner-tenant has laid challenge to order dated 30.09.2019 of the lower Appellate Authority, whereby in appeal, petitioner has been directed to make uptodate payment of provisional rent @ ₹9450/- per month w.e.f. 01.03.2010 with increase @ 5% per year.

Briefly, respondent No.1 filed an eviction petition under Section 13 of the East Punjab Rent Restriction Act (in short 'the Act') for eviction of petitioner as well as his real brother-respondent No.2 (since deceased), before the Rent controller, Hoshiarpur

Upon notice, petitioner appeared and filed reply and even the amended reply. During pendency of said petition, respondent No.1-landlord moved an application for assessment of provisional rent @ Rs.9450/- per month with 5% increase every year w.e.f. 01.03.2010 till the institution of eviction petition i.e. December, 2013.

The said application was contested by the petitioner-tenant.

Learned Rent Controller, after hearing both the sides, assessed provisional rent @ Rs.1,000/- per month, vide order dated 17.05.2017.

Against the said order, respondent No.1 filed appeal. Lower Appellate Authority vide order dated 30.09.2019, setting aside aforesaid order of the Rent Controller, assessed provisional rent @ Rs.9450/- per month w.e.f. 01.03.2010 upto date with 5% increase every year.

Being aggrieved against aforesaid order dated 30.09.2019, petitioner approached this court wherein the following order was passed on 22.10.2019:-

“Through this revision, tenant has laid challenge to order dated 30.09.2019, whereby Appellate Authority has fixed provisional rent of the demised premises at ₹9450/- per month.

Before hearing the petitioner, in the fitness of things, petitioner is directed to deposit entire arrears of provisional rent before the Appellate Authority within one month from today, which would be converted by the Appellate Authority in the shape of STDR in some nationalised bank fetching maximum rate of interest to save loss of interest to the party, who shall finally be held entitled for the same. The Appellate Authority shall keep the STDR receipts with it till further orders.

Adjourned to 6.12.2020 for awaiting

compliance report.

In case of non-compliance of this order, revision shall positively be dismissed for want of prosecution.

However, the said order did not suit to the petitioner.

Thus, he knocked at the door of Hon'ble Supreme court of India through SLP No.CA-26879-2019, but remained unsuccessful as the same was dismissed with direction to him to deposit 50% of the arrears of provisional rent within a period of four weeks, vide order dated 20.11.2019.

Learned counsel for the petitioner contends that lower appellate authority failed to appreciate that respondent No.1-landlord had prayed to the Rent Controller for assessment of provisional rent w.e.f. 01.03.2010 till the institution of eviction petition i.e. December, 2013. But, it has illegally assessed the same upto October, 2019. Learned lower Appellate Authority has illegally relied upon alleged rent agreement which was neither signed nor executed by the petitioner. Since, he was not signatory to it, therefore, the same had no binding effect upon him. The learned lower Appellate Authority also failed to appreciate that alleged rent agreement relied upon by the respondent-landlord was not a registered document, therefore, having no legal sanctity, it could not have been taken into consideration. At the best, it was only a document to prove relationship of tenant and landlord between petitioner and respondent No.1 and not beyond that, which the petitioner never denied.

In support of his argument, learned counsel for appellant

relied upon *Pardeep Behal vs. Kanwaljit Kaur and others 2012 (1)RCR (Rent) 404 and Sat Pal vs. Kesar Singh 1968 PLR 834.*

Having given thoughtful consideration to the submissions, this court finds the instant revision merits dismissal for the reasons to follow.

The petitioner admitted his tenancy over the demised property under Respondent No.1-landlord from the year 2002 @ Rs.1,000/- per month. Contrary to it, respondent No.1 –landlord in his application for assessment of provisional rent, specifically pleaded that rent agreement, signed by deceased-respondent No.2 with consent of the petitioner, who is none-else, but real brother of respondent No.1, respondent No.1 had agreed to pay rent @ Rs.9,000/- per month with increase @ 5% per year.

Thus, moot question before the Rent controller was to decide as to whether the plea of petitioner that he was inducted as a tenant on monthly rent of Rs.1,000/- or @ Rs.9,000/- per month in the year 2009. Respondent No.1-landlord claimed assessment of provisional rent w.e.f. 01.03.2010 i.e. after eight years of the commencement of tenancy of petitioner in the year 2002. During this period, prices of essential commodities increased manifold, rather sky rocketing.

Taking into account this fact, assessment of provisional rent @ Rs.9450/- with 5% increase w.e.f. 01.03.2010 after 08 years of the commencement of tenancy by the lower appellate authority, in the considered opinion of this court is quite genuine and justifiable.

Thus, this court finds no illegality or perversity in the impugned order

except that the lower appellate authority must have confined itself for the period for which respondent No.1-landlord had come before it to assess provisional rent i.e. 01.03.2010 till December, 2013. To this extent, finding of learned lower appellate authority is modified. However, the petitioner shall keep on deposit the provisional rent at the said rate.

The facts and circumstances of the authority, referred to above, by the learned counsel for petitioner are not identical to the facts of the present case. Therefore, the benefit of same cannot be given to the petitioner.

Dismissed.

19.12.2019
mamta

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No