

Civil Revision No. 7347 of 2019 (O&M)

Date of decision : November 20, 2019

Surinder Kumar

.....Petitioner

Versus

Gurcharan Singh

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vishal Yadav, Advocate for the appellant.

LISA GILL, J.

This revision petition has been filed for setting aside order dated 11.09.2019 passed by the learned Appellate Authority, Chandigarh wherein application filed by the petitioner – tenant for release of FDR which was deposited pursuant to court orders, was dismissed.

Undisputed facts are that ejectment of the present petitioner was directed by the learned Rent Controller, Chandigarh on a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 filed by the respondent – landlord vide decision dated 28.10.2017. An appeal was filed by the present petitioner and vide order dated 20.03.2018 passed by the learned Appellate Authority, Chandigarh, the petitioner was directed to deposit mesne profits at the rate of ₹10,000/- per month w.e.f. 28.10.2017 by way of fixed deposit in a nationalised bank, to be paid after final disposal to the either side, depending upon the result of the case. Appeal preferred by the petitioner was admittedly dismissed on 23.10.2018 by the learned Appellate Authority. It is argued that the learned Appellate Authority while dismissing the appeal filed by the petitioner has not directed the release of the amount in question to the respondent – landlord, therefore, this amount should be returned to the petitioner.

Having heard learned counsel for the petitioner and going

through the file, I do not find any ground whatsoever to interfere in the

impugned order dated 11.09.2019 passed by the learned Appellate Authority, Chandigarh

Learned counsel for the petitioner is unable to deny that the order assessing the mesne profits was passed by the learned Appellate Authority on 20.03.2018. Civil Revision No. 4555 of 2018 filed by the petitioner challenging the said order was dismissed on 20.07.2018 attached as Annexure P4 with this petition. Quantification of mesne profits at the rate of ₹10,000/- was upheld by this Court. Admittedly, the said amount of ₹1,00,000/- was deposited in compliance with orders towards mesne profits which necessarily have to be released to the respondent - landlord. It is not the case of the petitioner that the said amount is in excess of the amount, which is due towards respondent - landlord in terms of order dated 20.03.2018 and upheld by this Court on 20.07.2018. Merely because the learned Appellate Authority has not passed a specific order qua the release of the amount to the respondent - landlord cannot vest the petitioner with a right to refund of the said amount in the given factual matrix of the case.

Keeping in view the facts and circumstances of the case, learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned order dated 11.09.2019 passed by the learned Appellate Authority, Chandigarh, which calls for interference in exercise of revisional jurisdiction by this Court. The same is upheld.

No other argument has been addressed.

Accordingly, revision petition is dismissed with no order as to cost.

November 20, 2019

rts

Whether speaking/reasoned : Yes/No

Whether reportable

:

Yes/No

(Lisa Gill)
Judge