

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

**Civil Revision No.1474 of 2021 (O&M)
Date of Decision: August 18, 2021**

Mohammad Irfan

.....Petitioner.

VERSUS

Shanta Jain

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE G. S. SANDHAWALIA

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

(The proceedings are being conducted through video
conferencing, as per instructions)

G.S. SANDHAWALIA, J.(Oral)

By filing the present civil revision under Article 227 of the Constitution of India, petitioner-tenant challenges the order of the Appellate Authority dated 16.04.2021, wherein while allowing the cross-objections filed by the respondent-landlord, the provisional rent was enhanced from Rs.4,000/- to Rs.7,000/- per month and thus, made it payable from 01.04.2017 as claimed by the landlord.

Counsel for the petitioner vehemently submits that the Rent Controller vide order dated 17.03.2021, as such, had accepted the time period as alleged by the landlord but the rate of rent was accepted @ Rs.4,000/- as set up by the tenant in his defence.

The reasoning, as such, by the Appellate Court to modify the rate of provisional rent is on the ground that there is rent note dated

01.04.2015 (Annexure P-4) on the basis of which the rent petition has been filed.

It is not disputed that the petitioner-tenant had not denied the execution of the rent note but has stated that under the coercion and compelling circumstances, the rent note was executed @ Rs.7,000/- per month. However, the actual rate of rent was Rs.3,000/- per month which was later on enhanced to Rs.4,000/- per month w.e.f 01.04.2016. In such circumstances, once the rent note is available, the Appellate Court has rightly exercised its jurisdiction to enhance the provisional rate of rent to Rs.7,000/- per month. It would be a matter of evidence as such as to whether the rent note was executed under coercion or compelling circumstances. Since the same has been attested by two witnesses also, it would be open to the parties to prove the same by leading appropriate evidence.

In such circumstances, the impugned order fixing the provisional rent @ Rs.7,000/- per month suffers from no infirmity. The excess amount would be liable to be refunded/adjusted to the petitioner-tenant in case it is found that the rate of rent was actually Rs.4,000/- per month and not Rs.7,000/- per month. Accordingly, there is no merit in the present revision petition and the same is dismissed in limine.

August 18, 2021

Sachin M.

**(G. S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No