

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 2663 of 2020 (O&M)

Date of Decision: 17.09.2021

Murtian Siri Aadi Nath Bhagwan

... Petitioner(s)

Versus

Rameshwar Jain and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Harish Bhardwaj, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. The learned Rent Controller, after noticing that the newly impleaded parties have not been served and the respondent No. 2, 3, 5, 6 and 7 have already been proceeded against *ex parte*, refused to assess the provisional rent for the time being with the following observations:-

“However, still the newly impleaded parties have not been served/summoned. Meaning thereby, till the filing of the application in hand, the respondents and LRs of respondent No.1 have not been served. However, the respondent No.2, 3, 5, 6 and 7 have been proceeded against ex-parte. But the others have remained yet to be served. Their reply/written statement to the present petition have not been placed on the case file. In these circumstances, when the reply of the respondents is yet to be received and further when there appears to be dispute about the alleged relationship of landlord and tenant, the court is of

the view that it would be a futile exercise to provisionally assess the rent in this matter. In cases where the tenant disputes the relationship of landlord and tenant, it is not expected that the Rent Controller passes an assessment order of rent directing the said tenant to pay that rent. The exercise to be taken by Rent Controller would be futile and would rather be contrary to the stand of the parties. Even if the Rent Controller passes such an order and tenant maintains his stand of denying the relationship, then he could not be asked to pay the rent. Some prima-facie evidence is required by the parties (petitioner) for showing the existence of relationship between petitioner and respondent as that of landlord and tenant. No doubt, if the relationship was admitted by the respondents, then the Rent Controller would not have any hesitation in assessing the rent but in the present case, the very relationship of landlord and tenant appears to be disputed which is very clear from the reply of this application. So in these circumstances, at this stage this court does not deem fit to provisionally assess the rent and this application stands dismissed. Now the case is adjourned to 21.01.2021 for issuing notice to newly impleaded respondents”.

2. Keeping in view the aforesaid facts, the petitioner, if so advised, may press the application for assessment of the original rent after completion of service of the notices and the pleadings.

3. With the observations made above, the present revision petition is disposed of.

4. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(Anil Kshetarpal)
Judge

September 17, 2021
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No