

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

Sr. No.114

**CR-3147-2021 (O&M)
Date of decision : 06.12.2021**

Prithvi Raj

..... Petitioner

VERSUS

Parveen Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mrs. Himani Kapila, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

An application for ejectment of the petitioner-tenant on the ground of non-payment of rent and the demised premises having been rendered unfit and unsafe for human habilitation, was filed. Vide order dated 16.11.2019, ejectment has been ordered. Appeal has been preferred which is pending. In the appeal, an application for staying the operation of the order of Rent Controller was filed on behalf of the petitioner- tenant and another application for assessment of mesne profits was filed on behalf of the respondent-landlord. Both the applications have been decided vide the impugned order dated 12.10.2021. The Appellate Authority has stayed the dis-possession subject to deposit of mesne profits @ Rs.4,000/- per month on 10.11.2021.

Learned counsel for the petitioner has submitted that the documents based upon which the Rent Controller has returned a finding of landlord-tenant relationship has been misread and mis-construed by him. Rent had already been paid and the landlord has deposed that the same had been received by him. The person under whom the petitioner claims to be a tenant has not been impleaded as a party and the amount assessed by the Appellate Authority as mesne profits is unreasonable.

Whether, the evidence based on which a finding that landlord-tenant relationship existed between the petitioner and the respondent is valid or not is to be gone into by the Appellate Authority at the time of decision of the appeal. Presently, the Appellate Authority was only deciding the issue of stay of dis-possession and determination of mesne profits. Merely saying that the assessment of mesne profits is unreasonable is not sufficient unless and until the plea can be substantiated.

Learned counsel for the petitioner has not been able to substantiate this plea and thus, no error can be found in the impugned order.

In view of above, the revision petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

06.12.2021
Ramandeep Singh

Whether speaking / reasoned	Yes / No
Whether Reportable	Yes/ No