

VARINDER GUPTA

...Petitioner

Versus

SHREE SANATAN DHARM SABHA (REGD.)

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Kashish Garg, Advocate
for the petitioner.

(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside the order dated 06.12.2021 (Annexure P-6) passed by learned Additional District Judge, Bathinda, whereby, the order of provisional rent i.e. Rs.3,83,000/- as assessed by the learned Rent Controller @ Rs.7500/- per month, has been set aside and the case has been remanded back to decide afresh the application for provisional assessment of rent.

2. Learned counsel for the petitioner submits that the petitioner is a tenant and was paying rent @ Rs.7500/- per month as assessed by the learned Rent Controller. However, the respondent-landlord filed an appeal against the order of provisional rent as assessed by the learned Rent Controller. The learned Additional District Judge, Bathinda has set aside the said order with a direction to the learned Rent Controller to decide afresh after considering the escalation clause of Rent and the receipts. He further submits that the petitioner had denied the execution of rent note stating that the same was neither signed by the landlord nor any attesting witness and even it was not notarized. Subsequently also, the respondent-landlord has been accepting rent @ Rs.7500/- per month.

3. I have heard learned counsel for the petitioner and gone through the case file.

4. The order assailed herein is premised, *inter alia*, on the following reasoning:

“14. The learned Rent Controller had erred in ignoring the rent note on the plea that the rent note was not registered, more so, when the execution of the rent note was not denied in reply to the application for provisional assessment of rent. Whether the rent note was admissible being unregistered was a matter of evidence. The learned Rent Controller had further not considered the rent receipts on record showing enhanced rent being paid to the petitioner.

15. In the light of above said discussion, I am of the considered opinion that the order of learned rent controller deserves to be set aside. The appeal of the appellant stands accepted. The impugned order dated 6.2.2020 passed by Ld. Rent Controller stands set aside. The Ld. Rent Controller is directed to decide afresh the application for provisional assessment of rent after taking into consideration the enhancement clause of rent by 5% every year and taking into consideration the rent receipts, which reflect the deposit of enhanced rent by respondent in the light of above discussed law.”

5. A perusal of above leaves no manner of doubt that there is no irregularity in the impugned order either in facts or in law, so as to exercise extraordinary revisional jurisdiction of this Court.

6. There is no room for interference in the aforesaid valid reasons recorded by the trial Court, with which I am in agreement.

7. Dismissed with liberty to the petitioner-tenant to take up all his objections qua non-execution of the rent note, which shall be looked into by the learned Rent Controller while ascertaining the provisional rent as per the remand order dated 06.12.2021 passed by the Appellate Authority.

February 09, 2022
gurpreet

(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No