

124 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2337-2022
Decided on : 04.07.2022

Ramesh Kumar

..... Petitioner

Versus

Bhushan Kumar Gupta

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. G.S.Madaan, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

The petitioner is impugning the orders dated 16.03.2022 and 13.05.2022 (Annexure P-4 and P-6 respectively) whereby provisional rent in the sum of Rs.1,05,000/- per month was assessed by Rent Controller, Chandigarh.

Learned counsel for the petitioner *inter alia* contends that the impugned order suffers from material irregularities inasmuch as it does not correspond to the factual position of the dispute. He submits that after the outbreak of pandemic, the petitioner-tenant had given up possession of the first and second floor of the tenanted premises and had only its ground floor in his possession. Learned counsel further submits that after vacating the first and second floor of the tenanted premises, the rate of rent for the ground floor was settled @ Rs.20,000/- per month between him and the respondent-landlord, which was being paid regularly by him to the respondent-landlord. Learned counsel, thus, submits that in the

circumstances, both the Courts below fell into error while assessing the provisional rent by taking into consideration the rate of rent to be Rs.1,05,000/- per month instead of Rs.20,000/- per month and still further, wrongly ordered his eviction from the demised premises.

Heard learned counsel for the petitioners and perused the relevant material available on record.

It would be relevant to observe here that assessment of arrears of rent alongwith interest on such arrears and cost of application at this preliminary stage is provisional and is subject to the final outcome of the rent petition. It is well settled law that if the Rent Controller after final adjudication of the inquiry concludes that the quantum of arrears as determined finally are less than what was provisionally determined, the Rent Controller may then direct the excess amount to be refunded to the tenant. Further more, Hon'ble Supreme Court in ***Rakesh Wadhawan vs. Jagdamba Industrial Corporation, 2002(5) SCC 440*** has held that in case a tenant fails to comply with the order directing him to pay the amount of rent provisionally assessed by the Rent Controller, then nothing would remain to be done except ordering his eviction from the demised premises. The inquiry shall, however, continue for the final adjudication upon the dispute qua the arrears of rent only subject to the tenant complying with the order of provisional assessment of rent.

In the instant case, the petitioner-tenant has not disputed that monthly rent @ Rs.1,05,000/- per month was being paid by him till February, 2020. A perusal of the impugned orders dated 16.03.2022 and 13.05.2022 (Annexure P-4 and P-6 respectively) reveals that no material

whatsoever was placed on record by the petitioner to substantiate his claim that he had vacated the first and second floor of the demised premises and thereafter handed over the possession of the same to the respondent-landlord. Similarly, no material on record has been brought forth by the petitioner to show that he and the respondent-landlord had mutually fixed the rate of rent of the ground floor of the demised premises at Rs.20,000/- per month. Thus, in the absence of any corroborative material to prima facie support the case of the petitioner, this Court does not find any irregularity or error in the impugned orders.

The petitioner-tenant has admittedly failed to comply with the orders dated 16.03.2022 and 13.05.2022 (Annexure P-4 and P-6 respectively) of the Rent Controller and the Appellate Authority respectively wherein he was directed to pay the amount of rent provisionally assessed by the Rent Controller. Thus, the Rent Controller cannot be faulted with, in ordering the eviction of the petitioner-tenant from the demised premises.

As a sequel to the above, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

04.07.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable :

Yes/No