

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

CR-3386-2022

Date of decision: 25.08.2022

Dharam Pal

.... Petitioner

Versus

Smt. Suman Lata

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Kumar Rana, Advocate,
for the petitioner.

ANIL KSHETARPAL, J (Oral)

The petitioner herein is a tenant. He has been ordered to be evicted by the Rent Controller in a petition filed under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973. He has filed an appeal before the Appellate authority. During the pendency of the appeal, the land-lady filed an application to assess the use and occupation charges before granting any interim relief to the petitioner. The petitioner filed an application for directing the land-lady to pay ad valorem Court fee on the amounts of mesne profit. The Appellate authority has dismissed the application.

Heard learned counsel representing the petitioner.

Learned counsel representing the petitioner relies upon the judgment in **Naranjan Singh Vs. Kartar Singh & ors.**, 2002(1) PLJ 523, to contend that in a case, where the plaintiff claims mesne profit, he is required to pay ad valorem Court fee while filing the suit.

This Court has considered the submission. The amount of mesne profit is assessed by the Appellate authority only to ensure that the

tenant, who has been ordered to be evicted does not continue to enjoy possession without compensating the land-lord. Such determination is only interim in nature. Moreover, it is the tenant who is ordered to be evicted. He wants an interim order in his favour during the pendency of the first appeal. The Appellate authority, while granting injunction, can always direct the tenant to pay the market rent in order to protect the interest of the landlord.

The Haryana Urban (Control of Rent and Eviction) Act, 1973, is a special Act authorizing the landlords to file petition. A fixed Court fee is payable and the Rent Controller does not have any power to pass a decree for recovery of the amount. Hence, no ground for interference is made out.

Dismissed.

25.08.2022
monika

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No