

125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-4329-2022 (O&M)
Decided on : 10.10.2022

Upma Kakkar

..... Petitioner

Versus

Veena Aggarwal

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. K.R.Dhawan, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

The petitioner is impugning the order dated 10.05.2022 (Annexure P-1) vide which the Rent Controller declined to assess the provisional rent on the ground that there is no landlord and tenant relationship between the parties.

Learned counsel for the petitioner submits that the Rent Controller gravely erred while declining the assessment of provisional rent by failing to appreciate that the relationship between the parties stood duly proved from the notarized rent deed (Annexure P-2) dated 04.07.2019. Therefore, in the light of the said rent deed the denial by the tenant-respondent of there being no landlord-tenant relationship would be of no consequence. He submits that the denial by the respondent-tenant qua the existence of a relationship of landlord and tenant between the parties was with an oblique motive, so as to avoid the assessment of provisional rent and also to continue enjoying the demised premises without having to pay

the arrears of rent. Learned counsel still further submits that the malafides on the part of the respondent-tenant is evident from the fact that in her written statement the rate of rent was stated to be Rs.60,000/- per month, which in fact was contrary to the agreed rate of rent of Rs.3,60,000/- per month as mentioned in the rent deed, duly executed between the parties. He further submits that the legal notice (Annexure P-9) dated 11.06.2020, which had been sent by the respondent was only to frustrate the case of the petitioner landlord and though the respondent had averred that she had vacated the demised premises and handed over its vacant possession to the petitioner, however, there was nothing on record to substantiate the said fact. He vehemently argued that though the petitioner had categorically denied receiving the vacant possession of the demised premises in her rejoinder, however, the Rent Controller had gravely erred in failing to take note of the same and not assessing the provisional rent payable to the petitioner. Learned counsel asserted that the respondent was in arrears of rent amounting to Rs.1,36,51,815/- from 16.08.2019 to 15.07.2022 for which even a suit for recovery had been instituted by her. In support of his submissions, he has placed reliance upon the judgment of Coordinate Bench in ***Shri Sai Enterprises vs. M/s Gallant Arcade Pvt. Ltd., 2013(3) RCR (Civil) 582 and Piyush Gupta and another vs. Sanjiv Sharma and others (CR No.855 of 2016) decided on 29.02.2016.***

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

At the outset, it would be pertinent to observe here that the Rent Controller would be under no obligation to assess the provisional rent

once the relationship of landlord-tenant between the parties has been disputed by the tenant. In the instant case, a perusal of the written statement filed by the respondent reveals that the existence of relationship between the parties has been specifically denied by the respondent on the ground that rent deed had expired on 15.06.2020 and thereafter the respondent had vacated the demised premises and handed over the possession of the same to the petitioner.

In these circumstances, Rent Controller can certainly not be faulted with for not assessing any provisional rent. Whether or not the petitioner has falsely denied his relationship with the petitioner or as to whether the respondent is still in possession of the demised premises cannot be gone into at this stage. Moreover, the burden to prove the relationship between the parties is on the landlord for which she would get ample opportunity to prove the same by adducing evidence to the said effect.

Coming to the submissions of the learned counsel qua the respondent being in arrears of rent, the petitioner has already availed the appropriate remedy before the Civil Court.

The case law relied upon by the learned counsel for the petitioner would not come to her rescue as in the instant case there is no admission of landlord-tenant relationship between the parties by the respondent-tenant.

This Court has no hesitation in observing that the impugned order does not suffer from any illegality or material irregularity.

Accordingly, instant petition being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

10.10.2022
sonia

Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No