

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

118

CR No.5419 of 2022

Date of Decision: 23.11.2022

Kuldeep Singh

...Petitioner

Versus

Arun Kataria

...Respondent

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present :- Mr. Rakesh Dhiman, Advocate
for the petitioner.

MEENAKSHI I. MEHTA, J. (Oral)

By way of the instant revision petition, the petitioner-tenant (for short 'the tenant') has laid challenge to the order dated 19.10.2022 (Annexure P-6) whereby learned Rent Controller, Gurugram has assessed the provisional rent in respect of the demised premises, as Rs.41 lac and he has also assailed the order dated 15.11.2022 (Annexure P-8) handed down by learned Additional District Judge, Gurugram, dismissing the appeal as preferred by him (tenant) against order Annexure P-6.

2. I have heard learned counsel for the petitioner-tenant, at the preliminary stage, in the present revision petition and have also perused the file carefully.

3. Learned counsel for the tenant contends that vide the rent note Annexure P-1 as executed between the parties, the area measuring 3545 Sq. Yards had been let out to the tenant but subsequently, the respondent-

landlord (for short 'the landlord') has encroached upon the said area by raising the building thereon for running a Mall and now, the tenant is left in the possession over the area measuring 2061 Sq. Feet only, as reflected in the Property Tax Bill Annexure P-9 issued by the Municipal Corporation, Gurugram for the year 2021-22 but the Rent Controller has assessed the provisional rent for the entire area as mentioned in the said rent-note and moreover, the demised premises had been sealed by the Municipal Corporation on the ground that the requisite 'No Objection Certificate' had not been obtained from its Fire Brigade Branch in respect thereof and since then, the tenant has not been able to use the said premises and the above-said Certificate could not be obtained due to the lapse on the part of the landlord to comply with the prescribed procedure for the same and therefore, the tenant could not be fastened with the liability to pay the rent for the period subsequent to the sealing of the said premises and in these circumstances, both the impugned orders are not legally sustainable and deserve to be set-aside.

4. However, I do not find the afore-raised contentions to be tenable at all because as regards the Property Tax Bill Annexure P-9, the total area of the demised premises has been shown therein to be 3545 Sq. Yards, i.e the area as mentioned in the rent-note Annexure P-1. Though the area of the Marriage Palace has been depicted therein as 2061 Sq. Feet and a shop is also shown to be existing over an area measuring 5400 Sq. Feet in the same but at this stage, it cannot be ascertained as to who had raised the said shop and who is getting the rental income, if any, from the same.

5. Then, Annexure P-2 is the reminder issued by the Fire Brigade Officer, Municipal Corporation, Gurugram to M/s Harsh Vatika, i.e the Marriage Palace being run by the tenant in the demised premises, to make the arrangement for the Fire Extinguisher Equipment and to re-apply for the 'No Objection Certificate'. Though, the tenant alleges the omission on the part of the landlord to fulfil the requisite formalities for this purpose but again, this contention would be a subject matter for consideration and adjudication before the Rent Controller at the appropriate stage in view of the evidence that may be led by the parties on the record in this regard and the same cannot be determined while deciding the instant petition.

6. Moreover, Hon'ble Supreme Court has categorically observed in **Rakesh Wadhawan vs. M/s Jagdamba Industrial Corporation, Civil Appeal No.2135 of 1999 decided on 26.04.2002** that *"the tenant must pay or tender the provisionally assessed arrears of rent on the 'first date of hearing' after the passing of the order of 'assessment' by the Controller and on the failure of the tenant to comply, nothing remains to be done and an order for eviction shall follow and if the tenant makes the compliance, the inquiry would continue for finally adjudicating upon the dispute as to the arrears of rent in the light of the contending pleas raised by the landlord and the tenant before the Controller"*. These observations are fully applicable to the present case and in view of the same, it becomes explicit that the tenant is supposed to comply with the order Annexure P-6 passed by the Rent Controller for assessing the provisional rent in respect of the demised premises.

7. As a sequel to the fore-going discussion, it follows that both the impugned orders do not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the present revision petition, being *sans* any merit, stands dismissed.

23.11.2022
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*