

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: February 08, 2023

1. CR-899-2023 (O&M)

M/s J.C. Goel & Co. and others
.....Petitioners
versus

M/s Partap Mills and another
.....Respondents

2. CR-900-2023 (O&M)

M/s Atma Ram Piare Lal and another
.....Petitioners
versus

M/s Partap Mills and another
.....Respondents

3. CR-902-2023 (O&M)

M/s Khalsa Raj Store and another
.....Petitioners
versus

M/s Partap Mills and another
.....Respondents

4. CR-904-2023 (O&M)

Charan Dass
.....Petitioner
versus

M/s Partap Mills and others
.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Rohan Garg, Advocate for the petitioner(s).

Mr. Namit Gautam, Advocate for the landlords.

ARUN MONGA, J. (ORAL)

Vide this common order and judgment, above-mentioned four revision petitions are being disposed of, since the issues and facts raised therein are common. For brevity, recitals are taken from CR-899-2023.

2. Revision petition is against impugned order dated 18.01.2023 passed by learned Executing Court, whereby warrants of possession have been issued due to non-deposit of mesne profit, as ordered by learned Appellate Authority vide its order dated 25.02.2021 (Annexure P-5).

3. Succinct factual background first, as pleaded in petition. Respondent-landlords filed rent petition in the Court of learned Rent Controller, Khanna for eviction of petitioners from demised premises. Learned Rent Controller, after appraisal of evidence adduced by both parties, vide judgment/ order dated 04.01.2019 (Annexure P-3) allowed rent petition and eviction order was passed. Petitioner-tenants challenged said judgment/ order before learned Appellate Authority. During pendency of said appeal, respondent-landlords filed an application for assessment of mesne profit. Vide order dated 25.02.2021 (Annexure P-5), learned Appellate Authority stayed operation of order/ judgment dated 04.01.2019 till pendency of appeal; and also determined mesne profits as Rs.4,232/- per month (**in CR-899-2023**), Rs.957/- per month (**in CR-900-2023**), Rs.2,409/- per month (**in CR-902-2023**) and Rs.3,949/- (**in CR-904-2023**) along with a contractual rate of rent of Rs.30/-. In compliance of said order, petitioners deposited mesne profits

either in the Court of learned Rent Controller or through demand draft.

Petitioners are not in arrears of mesne profits as on the date of passing of impugned order.

3.1 On 27.10.2022, respondent-landlords filed an application before learned Executing Court, for issuance of warrants of possession due to non-deposit of mesne profits. Vide impugned order dated 18.01.2023, learned Executing Court decided the said application and issued warrants of possession.

4. I have heard rival contentions of both sides and perused record.

5. It transpires that as many as 87 adjournments have been granted by learned Appellate Authority to decide the appeal against ejectment order dated 04.01.2019 passed by learned Rent Controller. Petitioner is before this Court stating that ejectment order was stayed vide order dated 25.02.2021 (Annexure P-5) subject to payment of mesne profits@ Rs.4,232/- per month (**in CR-899-2023**), Rs.957/- per month (**in CR-900-2023**), Rs.2,409/- per month (**in CR-902-2023**) and Rs.3,949/- (**in CR-904-2023**) along with a contractual rent for payment to the respondent-landlords, by 10th day of every month; but owing to financial constraints and business loss, said deposits could not be made regularly though as on today, all the arrears have been paid by way of consolidated amount, before learned Appellate Authority. Said statement of payment of up-to-date arrears is though disputed by learned counsel

for respondent-landlord, who appears in the Court having got the knowledge of present proceedings through cause list.

6. Be that as it may, subject to proof of furnishing up-to-date payment of mesne profits as on today, within a period of 2 weeks, impugned warrants of possession shall be put on hold, subject to final outcome of pending appeal before learned Appellate Authority.

7. Keeping in view umpteen number of opportunities already accorded to the petitioners to address arguments, but needful having since not been done perhaps to deliberately delay the proceedings, though written arguments are stated to have already been submitted. In the premise, learned Appellate Authority is requested to not grant any further adjournment in the pending appeal and dispose of the same as expeditiously as possible, but not later than 2 months from today. In case, petitioners choose not to address arguments, since written arguments have already been submitted, learned Appellate Authority shall be at liberty to proceed on the basis of record.

8. Disposed of, accordingly.

9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

February 08, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No