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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: April 18, 2023

Rajesh Kumar Bedi

....Revisionist

versus

Aman Kahsyap

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. B.S. Rana, Senior Advocate with
 Mr. Nayandeep Rana, Advocate and
 Mr. Vikas Malik, Advocate for revisionist-tenant.

Mr. Chetan Mittal, Senior Advocate with
 Mr. Kunal Mulwani, Advocate for respondent-landlord.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside impugned order dated 22.08.2022 passed by learned Rent Controller, Chandigarh, whereby on an application filed by respondent-landlord for assessment of provisional rent was allowed, learned Rent Controller provisionally assessed the rate of rent; and impugned order dated 21.09.2022, whereby appeal filed by revisionist-tenant against aforesaid order, was dismissed.

2. Learned senior counsel for revisionist-tenant would contend that respondent-landlord filed an Eviction Petition under Section 13 of the East Punjab Urban Rent Restriction Act (As amended upto date and applicable to U.T., Chandigarh) for eviction of revisionist, on the ground of arrears of rent, from Ground Floor and First Floor portion of a 10-Marla House bearing No.247, Sector 15-A, Chandigarh (as recited in rent petition). Respondent-landlord filed an application for assessment of provisional rent. Vide impugned order dated 22.08.2022, learned Rent Controller allowed the aforesaid application and assessed

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the initial rent @ Rs.3.60 lakh per month from 01.02.2020 to 31.08.2020 and thereafter, granted enhancement @ 10% per year on the last paid rent. He would further contend that revisionist-tenant filed an appeal against aforesaid order, which was also dismissed by learned Appellate Authority vide order dated 21.09.2022.

2.1. Learned senior counsel for revisionist-tenant would argue that learned Authorities below ignored the fact that rent deed produced by respondent-landlord was an unregistered rent deed. 10% enhancement cannot be granted while assessing provisional rent after relying on stipulations in an unregistered rent deed. He would also argue that revisionist-tenant had categorically denied the relationship of tenant and landlord, therefore, no order regarding provisional assessment of rent could have been passed.

3. On the other hand, learned counsel for respondent-landlord opposes the prayer made and submits that revisionist-tenant has concealed the factum of passing of final judgment/ order dated 26.09.2022 (Annexure R-1) in the eviction petition in question. Revisionist-tenant has also concealed filing of an appeal (Annexure R-4) against aforesaid judgment/ order. Revisionist-tenant has also concealed filing of an application for extension of time to vacate tenanted premises before learned Executing Authority (Rent Controller). He would further argue that revisionist has concealed factum of partial execution of final judgment/ order dated 26.09.2022, that on 21.12.2022, possession of ground floor portion (under tenancy of revisionist-tenant) has been taken through bailiff, which was endorsed to the revisionist on the backside of warrants of possession (Annexure R-6).

4. I have heard learned counsel for parties and gone through the record.

5. Having heard arguments, I am of the view that revisionist-tenant, who is seeking an equitable relief before this Court must also at the same time conduct equitably in order to seek discretionary indulgence of the Court. Having

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intentionally withheld material facts from the Court as well as concealment of filing of an application dated 23.11.2022 (Annexure R-2), which has been placed on record by respondent-landlord along with an application seeking summary dismissal of revision petition, I am of the view that revisionist does not deserve any indulgence by invoking extraordinary revisional jurisdiction of this Court. In fact, very pleading of the revisionist-tenant before learned Rent Controller vide aforesaid application (Annexure R-2), non-suits him to seek any relief from this Court, at this stage, given that said application was dismissed vide order dated 08.12.2022 (Annexure R-3) and he did not take any steps to seek any remedy against the said order. Both head note of the application as well as order passed on the same being relevant, are reproduced herein below:

Head note of application dated 23.11.2022 (Annexure R-2) filed before learned Executing Authority (Rent Controller) by revisionist-tenant

“Application under section 151 of the Code of Civil Procedure, 1908, with a prayer seeking extension of time to vacate the demised premises from 60 days as has been directed vide order/ judgment dated 26.09.2022 to further, period of 90 days pertaining to the ground floor and first floor portion of house No.247, Sector 15-A, Chandigarh (except two bed rooms on the ground floor along with attached bathrooms, lobby and rear courtyard under the possession of the Revisionist/ respondent) as directed in the order/ judgment dated 26.09.2022, keeping in view the facts and circumstances mentioned above and in the interest of justice.”

Order dated 08.12.2022 (Annexure R-3) passed on aforesaid application

“Arguments heard on application for issuance of direction to Bailiff to take the possession of premises by breaking open the lock.

Vide separate order, application for issuance of direction to Bailiff to take the possession of premises by breaking open the lock stands dismissed at this stage.

Vide separate order of even date, application under Section 151 CPC with a prayer seeking extension of time to vacate the demised premises from 60 days as has been directed vide order/ judgment dated 26.09.2022 to further period of 90 days pertaining to the ground floor and first floor portion of house No.247, Sector 15-A, Chandigarh (except two bed rooms on the ground floor along with attached bathrooms, lobby and rear courtyard under the possession of the Revisionist/ respondent) as directed in the order/ judgment dated 26.09.2022 stands dismissed being devoid of any merit.

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Accordingly, warrants of possession in respect of the suit property fully detailed and described in judgment dated 26.09.2022 be issued for 03.01.2023.”

- 6. In view of the aforesaid, revision petition is dismissed both on merits as well as concealment of material facts.
- 7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

April 18, 2023
mahavir

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