

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Revision No.2053 of 2023

Date of Decision: 30.05.2023

M/s Swastik Tent Services & Anr.

...Petitioners

Versus

M/s Hridhaan Orchard County & Anr.

...Respondents

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

Argued by:- Mr. Vipin Yadav, Advocate,
for the petitioners.

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MEENAKSHI I. MEHTA, J.

By way of the instant revision-petition, the petitioners-defendants No.1 & 2 (here-in-after to be referred as 'defendants No.1 & 2') have laid challenge to the order dated 16.02.2023 (Annexure P-9) passed by learned Civil Judge (Junior Division) Kharar (for short 'the trial Court') in ***Civil Suit No.33 of 2021***, whereby the application (Annexure P-7), as moved by respondent No.1-plaintiff Firm (here-in-after to be referred as 'the plaintiff') under Order XV Rule 5 CPC with a prayer to strike-off their (defendants No.1 & 2's) defence on account of non-payment of the lease money, electricity dues and the STP charges etc, has been allowed and they have been directed to make the payment of an amount of Rs.1,14,83,922/- on these counts.

2. Shorn and short of unnecessary details, the facts culminating in the filing of the present revision-petition, are that the plaintiff has filed

the afore-referred Civil Suit against the defendants for seeking a decree for possession of the suit property and also for the recovery of the amount of Rs.96,64,597/-, consisting of the arrears of lease money, *mesne* profits, electricity dues and other charges, with a further prayer for the grant of relief of permanent injunction to restrain them (defendants) from removing the construction raised in the said property, while averring that it (plaintiff) had leased out the suit property to the defendants vide lease-deed Annexure P-1 and the above-said amount has become due to it from them but they have failed to pay the same despite the service of notice upon them for this purpose. The defendants filed their written statement controverting the claim of the plaintiff therein, on the grounds that the plaintiff itself had violated the terms and conditions of the lease deed and had also not handed over the physical possession of the suit property to them. Then, the plaintiff moved the afore-mentioned application with the prayer to strike-off the right of the defendants to defend in the said Suit, which has been allowed vide the impugned order.

3. I have heard learned counsel for the petitioners-defendants No.1 & 2 in the instant revision petition, at the preliminary stage and have also perused the file carefully.

4. Learned counsel for defendants No.1 & 2 has contended that as per the terms and conditions laid down in lease deed Annexure P-1, the plaintiff had to fulfil certain obligations so as to facilitate the defendants in running their business in the suit property but it (plaintiff) has failed to do so and has also not handed over the actual physical possession of the said

property to them (defendants) inspite of the fact that they had paid an amount of Rs.20 lac to the plaintiff, in advance, as the refundable security and in these circumstances, defendants No.1 & 2 were not liable to pay the amount, as mentioned in the impugned order.

5. However, the above-raised contentions are devoid of any merit because concededly, the suit property had been leased out by the plaintiff to the defendants vide lease deed Annexure P-1. Though defendants No.1& 2 have alleged that the plaintiff did not hand over the physical possession of the said property to them but in normal course of events, it seems highly improbable that any prudent person/lessee would pay the whopping amount of Rs.20 lac to the lessor, in advance, without even getting the physical possession of the property leased out to him/her.

6. As regards the non-fulfilment of the terms and conditions of lease deed Annexure P-1 by the plaintiff, it is pertinent to mention here that though in Paras No. (F) & (G) in the preliminary objections in their written statement, defendants No.1 & 2 have asserted that they had discussed this matter with the plaintiff on 09.05.2018 and 17.05.2018 through *emails* but again, the fact remains that the said Civil Suit has been filed by the plaintiff in the year 2021 and at this stage, defendants No.1 & 2 have not been able to place any cogent material on the file to show that after the afore-said communication between them and the plaintiff, they had ever taken any steps or had resorted to the remedy, as might have been legally permissible to them, to seek the redressal of their above-discussed grievance, during the period of almost three years till the filing of the Suit. Even otherwise, the

question of the alleged non-fulfilment of the obligations, as stipulated in lease deed, by the plaintiff can and shall be looked into and adjudicated upon by the trial Court at the relevant stage after appreciating and evaluating the evidence that may be led by the parties on the record in support of their respective contentions in this regard and the same cannot be answered/determined at the stage of dealing with and deciding the present revision petition.

7. To add to it, Hon'ble Supreme Court has made the following observations in **Civil Appeal No.4682 of 2022** titled as **"Asha Rani Gupta vs. Sri Vineet Kumar"** (decided on 11.07.2022):-

"13. In the suit of the present nature, where the defendant otherwise has not denied his status as being the lessee, it was rather imperative for him to have scrupulously complied with the requirements of law and to have deposited the arrears of rent due together with interest on or before the first date of hearing and in any case, as per the second part of sub-rule(1) of Rule 5 of Order XV CPC, he was under the specific obligation to make regular deposit of the monthly amount due, whether he was admitting any such dues or not."

These observations clinch the entire controversy between the parties in the instant matter and in the light of the same, it becomes crystal clear that defendants No.1 & 2 cannot escape/evade their liability to pay the arrears of lease money etc, as mentioned in the impugned order, on the ground that the plaintiff had failed to comply with the terms and conditions enumerated in the said lease deed.

8. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the revision petition in hand, being bereft of any merit, stands dismissed.

May 30, 2023
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	Yes