

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(108)

CR-2387-2023

Date of Decision : May 24, 2023

Ramesh Kumar Since Deceased Through LR Mukesh Garg
.. Petitioner

Versus

Mahinder Pal Saini and another .. Respondents

(109)

CR-2394-2023

Ramesh Kumar Through LR .. Petitioner

Versus

Ramesh Kumar and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. G.C. Shahpuri, Advocate, for the petitioner
in both revision petitions.

Mr. Namit Khurana, Advocate, for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, two civil revision petitions, the details of which have been given in the heading of this order, are being decided as both the petitions have been filed by the same landlord but against the different tenants.

2. Present revision petitions have been filed challenging the order dated 11.04.2023 (Annexure P-6) passed by the Appellate Authority vide which the order dated 22.03.2023 passed by the Rent Controller, has been set aside.

3. Learned counsel for the petitioner argues that by the impugned order dated 11.04.2023 (Annexure P-6), the Appellant Authority under the Rent Control Act has set aside a reasoned order dated 22.03.2023 (Annexure P-4) passed by the Rent Controller by which, the provisional rent was assessed @ Rs.2,000/- per month. Learned counsel for the petitioner submits that once there was a receipt shown for the rent of Rs.2,000/- per month, the same could not have been ignored by the Appellate Authority especially when the same had already been accepted by the Rent Controller.

4. Learned counsel for the petitioner further submits that in any case, by the impugned order dated 11.04.2023, the case was remanded back by the Appellate Authority to the Rent Controller to assess the rent afresh, hence, the direction could not have been given to assess the rent at a particular rate of Rs.500/- per month.

5. Learned counsel for the respondents, on the other hand, submits that in the present case, the receipts of rent of Rs.2,000/- per month which were being relied by the landlord, were disputed to be forged one and the signatures concededly on the said slip did not match to that of the tenant. It has been further argued by learned counsel for the respondents that they have already paid the rent by way of money order transfer @ Rs.500/- per month which has already been accepted by the landlord without raising any

objection hence, the said fact which was ignored by the Rent Controller while assessing the rent @ Rs.2,000/- per month, has rightly been considered by the Appellate Authority to assess the rent @ Rs.500/- per month.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. The only dispute in the present petitions is that as to whether, the rent receipts which were being relied upon by the landlord showing the rent to be @ Rs.2,000/- per month is to be taken into account for assessing the provisional rent or the amount of rent i.e. @ Rs.500/- per month which have been deposited by the tenants by way of money order which amount was duly accepted by the landlord, is to be taken into account for assessing the provisional rent.

8. It may be noticed that the receipts which have been produced by the landlord in his favour showing the rent @ Rs.2,000/- per month, the same is being claimed as forged and signatures on the said receipt are being disputed but with regard to the deposit of the rent by the tenants by way of money order, which is Rs.500/- per month, has been duly received by the landlord and that too without raising any objection.

9. Keeping in view the said fact, the landlord is claiming the assessment of rent on the basis of a receipt which is being claimed to be forged whereas, the tenants are claiming the assessment of rent on the basis of the rent deposited by them through money order, which has been accepted by the landlord hence, there is no infirmity in the view of the Appellate Authority in the impugned order.

10. Further in the present case, the trial Court accepted the version of the landlord without realizing that rent receipts are being claimed to be forged whereas, the deposit of the rent by money order was not even being disputed by the landlord. Hence, the order passed by the Appellate Authority in assessing the rent @ Rs.500/- per month keeping in view the amount deposited by the tenant by way of money order, which was accepted by the landlord without raising objection, cannot be treated to be arbitrary or illegal.

11. Further, the assertion of learned counsel for the petitioner that in the present case, the case has been remanded back by the Appellate Authority to the Rent Controller for assessment of the rent afresh, is not proved from the impugned order. It may be noticed that the Appellate Authority has assessed the rent @ Rs.500/- per month in paragraph 6 of the impugned order dated 11.04.2023 and has disposed of the petition by directing the Rent Controller to accept the said rent as the correct assessment. Hence, the case has not been remanded back by the Appellate Authority for fresh adjudication of the provisional rent as being argued.

12. It may be noticed that as per the judgment of the Coordinate Bench of this Court in ***CR No.6485 of 2012 titled as Smt. Urmila Devi vs. Davinder Singh, decided on 12.08.2013***, the Appellate Authority has to decide the provisional rent and the case cannot be remanded back to the Rent Controller and that is why, the Appellate Authority in the impugned order has assessed the rent @ Rs.500/- per month by setting aside the provisional assessment of rent made by the Rent Controller, hence, the judgment of the lower Appellate Court cannot be treated to be perverse

either on facts or on law.

13. It may be noticed that ultimately at the end of the proceedings, keeping in view the evidence which will come on record, the actual rent of the premises will be decided by the Rent Controller as the present order only relates the assessment of provisional rent.

14. Present civil revision petitions are accordingly dismissed in above terms.

May 24, 2023

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No