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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: April 25, 2023

Harjinder Kumar alias Harjinder Pal Singh

....Revisionist

versus

Sita Devi and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Lakhwinder Singh Mann, Advocate for Revisionist.

ARUN MONGA, J. (ORAL)

Petition herein has been filed by revisionist-tenant seeking direction to learned Appellate Authority, Hoshiarpur to decide stay application in a time bound manner, filed along with the appeal of revisionist-tenant, against judgment/ order dated 26.10.2022 (Annexure P-1) passed by learned Rent Controller, Hoshiarpur, whereby ejectment of the Revisionist-tenant from shop in question has been ordered.

2. The revision petition is premised on the averments that respondent-landlord filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, for ejectment of revisionist-tenant from the shop in question. Vide order dated 26.10.2022 (Annexure P-1), learned Rent Controller, Hoshiarpur allowed the said ejectment petition and directed the revisionist-tenant to vacate the shop in question. Aggrieved, Revisionist-tenant filed an appeal before learned Appellate Authority against the aforesaid ejectment order.

2.1. Along with the appeal, an application seeking stay of operation of ejectment order was also filed. Said appeal was taken up by learned Appellate Authority on 24.11.2022 (Annexure P-4), however, ad interim ex parte stay was declined to petitioner/tenant, observing that it would not be proper to pass an injunction order without hearing respondent/landlord.

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2.2. Thereafter, on 02.02.2023, counsel for respondents No.1 to 3-landlords filed an application seeking *mesne* profits. File was then taken up again on 23.02.2023 and but was adjourned to 06.04.2023 for consideration on application for *mesne* profits. On 06.04.2023, matter was once again adjourned to 21.04.2023. Meanwhile, respondents also filed execution petition and in the said proceedings, vide order dated 21.03.2023, warrants of possession have been issued for 25.04.2023.

3. Learned counsel for revisionist-tenant would contend that since application seeking stay of operation of judgment/ order dated 26.10.2022 passed by learned Rent Controller, Hoshiarpur is still pending and not being decided by learned Appellate Authority, and on the other hand, warrants of possession have been issued by learned Executing Court, revisionist-tenant is apprehending his dispossession without adjudication on the stay application as well as appeal.

4. Given the nature of order being passed, there is no necessity to issue notice to respondent/landlords, as no serious prejudice would be caused to them. Notice to respondents is thus dispensed with.

5. I have heard learned counsel for revisionist-tenant and gone through the case file.

6. What is thus urged before this Court that on one hand, learned Appellate Authority is not adjudicating the appeal pending before it and that too without granting any interim protection and on the other hand, respondents-landlords are taking undue advantage of the same and have initiated execution proceedings pursuant to the eviction order passed by learned Rent Controller, warrants of possession has been issued and in case, same is executed, appellate proceedings would be rendered infructuous.

6.1. On a Court query, learned counsel for revisionist submits that revisionist is a petty shopkeeper running business of mobile repair/ sale in the rented premises since year-2001 onwards. He submits that revisionist would be rendered totally

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remediless apart from losing his livelihood by sheer non-adjudication of his rights in the pending appeal.

6.2. My attention has also been drawn to stand of the landlords *qua* non-payment of rent at the rate of Rs.600/- per month with interest at the rate of 6% to be recovered from revisionist. In the premise, in order to balance the equities and to meet the ends of justice, I deem it appropriate that subject to revisionist-tenant depositing, as an *ad interim* measure, rent at the rate of Rs.1,000/- per month w.e.f. the date of default, which is stated to be 01.09.2016, within a period of 30 days from today, needless to say without prejudice to the rights of respondent-landlords to cause any further recovery in accordance with law, in case found entitled to do so, revisionist shall not be dispossessed from the premises in question subject of-course to final outcome of the appeal. It is also made clear that rent paid by revisionist-tenant pursuant to this order shall be adjusted towards liability to be determined in the pending application for *mesne* profits.

7. Disposed of accordingly.

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

(ARUN MONGA)
JUDGE

April 25, 2023
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No