

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

394

CR-2397-2022

Date of decision: 18.08.2023

Narpinder Singh

....Petitioner

Versus

Rajesh Mahajan

...Respondent

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Ramandeep Singh, Advocate for the petitioner.

Mr. Parunjeet Singh, Advocate for the respondent.

AMARJOT BHATTI, J.

1. The petitioner – Narpinder Singh has filed the present civil revision against impugned order dated 25.05.2022 passed by learned Rent Controller, UT, Chandigarh vide which the learned Rent Controller declined to assess the provisional rent on the ground that there is a dispute regarding relationship of landlord and tenant. It is pointed out that the petitioner filed ejectment petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for the ejectment of respondent from the plot measuring 08 marlas along with the construction, on the ground of personal necessity and non-payment of rent. The copy of rent petition is Annexure P-1 and the written statement submitted by the respondent is Annexure P-2. The rejoinder was also filed to the said written statement which is Annexure P-3. The learned Rent Controller has committed grave error by not exercising its jurisdiction for not assessing the provisional rent by ignoring the basic principles of pleadings which clearly reveals that the

tenant/respondent admitted in para No.8 of the written statement that he has paid the rent up to the month of January, 2021. In fact, the tenant in order to avoid his liability took contradictory stand in the written statement. The learned Rent Controller, UT, Chandigarh while passing the impugned order dated 25.05.2022 ignored the admission of respondent in the written statement. Therefore, the impugned order dated 25.05.2022 passed by the learned Rent Controller, UT, Chandigarh may kindly be set aside with the direction to assess the provisional rent in accordance with law.

2. The learned counsel for the respondent opposed the civil revision by alleging that the respondent/tenant had taken specific stand in preliminary objection No.10 that the ejectment petition is not maintainable in the present form because there is no relationship of landlord and tenant existing between the parties. Since the relationship of landlord and tenant is disputed, therefore, the learned Rent Controller, UT, Chandigarh rightly passed the impugned order dated 25.05.2022 vide which the provisional rent was not assessed by the learned Rent Controller, UT, Chandigarh. It is further pointed out that the respondent/tenant intends to file amendment application to clear the discrepancy, therefore, no interference is required in the impugned order dated 25.05.2022.

3. I have considered the arguments and have gone through the record carefully. It is a matter of record that the present petitioner Narpinder Singh filed ejectment petition under Section 13 of East Punjab Urban Rent Restriction Act against Rajesh Mahajan respondent/tenant. The copy of petition is Annexure P-1. The ejectment petition is contested by the respondent who filed his detailed written statement, which is

Annexure P-2. The present petitioner also filed rejoinder to this written statement which is Annexure P-3. In order to decide the matter in controversy, I have carefully gone through the contents of the written statement Annexure P-2. While filing the written statement the respondent/tenant has taken 13 preliminary objections and in preliminary objection No.10 it is mentioned that the ejectment petition is not maintainable and the existence of relationship of landlord and tenant is also denied. I have also gone through the contents of the written statement on merits. In para No.4 on merits, the respondent took the stand that he has already paid the entire rent to the father of petitioner and after him to his legal heirs till January, 2021 in cash. In para No.8 on merits, the respondent/tenant again took the stand that the rent is paid to the petitioner up to the month of January, 2021 but the petitioner never issued any receipt to the respondent. Therefore, from the aforesaid pleadings, it cannot be said that there is no relationship of landlord and tenant between the parties. The learned Rent Controller, UT, Chandigarh was required to go through the entire pleadings before reaching to the conclusion as to whether there is a relationship of landlord and tenant between the parties or there is mere denial to avoid the liability. During the course of arguments, the learned counsel for the petitioner has also placed on record one copy of order dated 12.05.2022 vide which the amendment application filed by the respondent/tenant has been declined and again there is downloaded copy of interlocutory order dated 29.09.2022 vide which the learned counsel for the respondent had given his statement vide which he did not press upon the application under Order 7 Rule 11 of CPC filed by him for the rejection of petition.

Therefore, considering the aforesaid facts, I do not find any force in the arguments advanced by learned counsel for the respondent/tenant. In view of these facts, it is the duty of learned Rent Controller, UT, Chandigarh to find out *prima-facie* case for the purpose of assessment of provisional rent on the basis of pleadings of the parties regarding relationship of landlord and tenant between them. With these observations, the present civil revision is allowed and the impugned order dated 25.05.2022 is set aside. The matter is remanded back to the learned Rent Controller, UT, Chandigarh to pass a speaking order in this regard within a period of one month from the date of receipt of copy of this order, after affording the opportunity to the parties.

Accordingly, the present civil revision stands disposed of.

18.08.2023
Sunil Devi

(AMARJOT BHATTI)
JUDGE

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