

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CR-2435-2021

Date of Decision :04.01.2023

Karambir

...Petitioner

Versus

Narender

....Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ajay Kumar Kansal, Advocate for the petitioner.

Mr. Abhimanyu Batra, Advocate for the respondent.

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Harsimran Singh Sethi, J. (Oral)

Learned counsel for the petitioner argues that a rent petition has been filed by the respondent-landlord for ejectment on the grounds of arrears of rent, personal bonafide necessity as well as for impairment of value and utility of the premises and the arrears of rent being claimed in the said petition is from 10.08.2018 till 09.05.2019. Learned counsel for the petitioner submits that the petitioner has been proceeded ex-parte in the said rent petition vide order dated 18.05.2019 and an application for setting aside the said exparte order has been dismissed by the Court below on 08.09.2021 (Annexure P/7), which orders are under challenge in the present petition.

Learned counsel for the petitioner argues that for the same premises, the respondent-landlord had filed another rent petition being R.P. No.16/2021 wherein, landlord was claiming rent from 10.05.2019 to 09.03.2021, in which petition, the petitioner has already appeared and it was only during the proceedings of the said petition, the petitioner has come to know about the exparte order passed against him by the Court below on

18.05.2019 and within a period of 04 days of getting the said information, an application has been filed by the petitioner for setting aside the said exparte order, which has been dismissed by the Court below vide order dated 08.09.2021 (Annexure P/7) on the ground that the same has no bonafide.

Learned counsel for the petitioner prays that one opportunity be given to the petitioner to appear in said proceedings, for which, he is not only ready to pay arrears of rent on the first date of appearance before the trial Court but is also ready to pay interest on the said amount and to suffer cost as well so as to compensate the landlord.

Learned counsel for the respondent-landlord submits that the petitioner is a habitual defaulter in the payment of rent and once he was duly served, exparte order passed by the Court below dated 18.05.2019 is perfectly valid keeping in view the fact that the petitioner defaulted his appearance despite valid service and further Court below has rightly dismissed his application for setting aside the exparte order dated 18.05.2019 hence, the present petition, which has been filed by the petitioner challenging the said exparte order may kindly be dismissed.

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

It is a settled principle of law that a dispute between the parties needs to be settled on merits. In the present case, though, there is a default on the part of the petitioner but keeping in view the fact that proceedings are still pending before the Court below and the petitioner had appeared and filed application for setting aside the exparte order dated 18.05.2019, the same should have been allowed by the trial Court by putting certain

conditions so as to compensate the landlord who suffered prejudice.

Further, the petitioner is already appearing in another suit qua the same issue between the parties and the same is being contested by him.

Keeping in view the above stated facts, order dated 08.09.2021 (Annexure P/7) as well as order dated 18.05.2019 passed by the Court below are set aside keeping in view the undertaking of the petitioner that he will appear before the trial Court on the next date of hearing i.e. 10.01.2023 and on the said date, as undertaken by learned counsel for the petitioner, the petitioner will tender arrears of rent from 10.08.2018 till 09.05.2019 alongwith interest @ 6% per annum from the date rent became due till the date same is tendered, keeping in view the fact that the proceedings have been delayed due to the non-appearance of the petitioner and the respondent-landlord has suffered prejudice alongwith cost of Rs.5000/-.

It is made clear that in case on the next date of hearing before the trial Court i.e. 10.01.2023, undertaking given before this Court by the learned counsel for the petitioner that the petitioner will tender arrears of rent along with interest as well as cost, is not complied with, the present petition will be deemed to have been dismissed.

It is further made clear that deposit of the said arrears of rent alongwith interest will be subject to the final outcome of the suit pending before the trial Court.

Present petition stands disposed of in above terms.

January 04, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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