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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. CR-5887-2023 (O&M)
Date of decision: 30.07.2024

Sarwan Kumar @ Shravan Kumar ...Petitioner

Versus

Maninder Singh ...Respondent

2. CR-2426-2024 (O&M)
Date of decision: 30.07.2024

Sarwan Kumar ...Petitioner

Versus

Maninder Singh ...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rishabh Gupta, Advocate for the petitioner
(In both the cases)

Mr. D.S. Malwai, Advocate for the respondent
(In both the cases)

VIKAS BAHL, J. (ORAL)

1. This order will dispose of two revision petitions i.e. CR-5887-2023 and CR-2426-2024. CR-5887-2023 has been filed by Sarwan Kumar @ Shravan Kumar-tenant for setting aside the order dated 03.07.2023 (Annexure P-5) passed by the Rent Controller in Rent Petition No.56 of 2019 titled as “Maninder Singh Vs. Sarwan Singh” as well as order dated 31.08.2023 (Annexure P-6) passed by the Appellate Authority, whereby appeal filed by the petitioner has been dismissed. CR-2426-2024 has been filed for setting aside the order dated 01.12.2023 (Annexure P-13) passed



by the Rent Controller in Rent Petition No.56 of 2019 whereby the defence of the petitioner-tenant has been struck off.

2. Vide order dated 03.07.2023 which is the subject matter of challenge in CR No.5887 of 2023, the Rent Controller had allowed the application filed under Section 25 of the Punjab Rent Act, 1995 for issuance of directions to the present petitioner to make the payment of arrears of rent and had assessed the rate of rent to be Rs.27,000/- per month and the total amount due was computed to be Rs.23,38,875/-. An appeal filed by the petitioner against the said order dated 03.07.2023 was dismissed on 31.08.2023. However, while dismissing the said appeal, it was observed by the Appellate Authority that the Rent Controller had only assessed the interim rent vide its order dated 03.07.2023, which would be subject to the final order passed by the Rent Controller after taking into consideration the evidence of the parties and had further observed that if at the time of final decision, it was determined that the appellant/tenant had paid excess rent, then the same would be adjusted in the future rent and the appellant/tenant would not be prejudiced in any manner due to payment of excess rent, if any. Relevant portion of the said order is reproduced as under:-

“Even otherwise, learned Rent Controller has only assessed interim rent vide its order dated 03.07.2023 which would be subject to final order passed by learned Rent Controller after taking evidence of the parties. Needless to observe here that if at the time of final decision, it is determined that the appellant/tenant has paid excess rent, same would be adjusted in the future rent and appellant/tenant would not be prejudiced in any manner due to payment of excess rent, if any.”



3. Learned counsel for the petitioner has submitted that in view of the said observations, since the petitioner's right has been protected, thus he be permitted to withdraw the present revision petition with liberty to the petitioner to take up all the points which are available to him during the course of trial, in accordance with law.

4. Keeping in view the abovesaid facts and circumstances, CR-5887-2023 is dismissed as withdrawn with liberty to the petitioner to take up all the points which are available to him during the course of trial, in accordance with law.

5. Learned counsel for the petitioner in CR-2426-2024 has submitted that although, an amount of Rs.23,38,875/- was required to be paid by the petitioner as per the order dated 03.07.2023 passed by the Rent Controller, Jalandhar but the Coordinate Bench of this Court vide order dated 05.10.2023 passed in CR-5887-2023, while issuing notice of motion was pleased to grant stay of the operation of the impugned order on deposit of 60% of the total assessed amount i.e. Rs.23,38,875/-. The order dated 05.10.2023 has been highlighted which is reproduced hereinbelow:-

“Present: Mr. Rishabh Gupta, Advocate for the petitioner.

Counsel appearing on behalf of the petitioner while assailing the impugned order dated 03.07.2023 (Annexure P-5) submits that the learned Rent Controller wrongly assessed the arrears of Rent along with interest and maintenance and expenses as Rs.23,38,875/- and further directed the petitioner to deposit the same by the next date of hearing.

Counsel for the petitioner inter alia submits that there is dispute between the parties with regard to rate of rent and the



respondent is claiming the rent of Rs.27000/- per month but actually the rent is Rs.15930/- including GST. Counsel for the appellant further submits that the impugned order being bad in law deserves to be set aside and he also made prayer that the operation of the impugned order be stayed. Counsel for the appellant further submits that in order to show his bona fide, the petitioner is ready to deposit the 50% of the assessed amount.

Notice of motion for 18.12.2023.

In the meantime, petitioner is directed to deposit 60% of the total amount of Rs.23,38,875 as has been assessed by the Rent Controller, within 8 weeks from today in the Court below and subject to the said condition, the operation of the impugned order is stayed till the next date of hearing.

05.10.2023”

6. It is submitted that the petitioner had prepared a demand draft of an amount of Rs.14,03,500/- which was 60% of the total amount assessed, within the time granted and had also presented the same on 30.11.2023 before the trial Court but however on account of an inadvertent error in the same, the name in the draft was mentioned as “M/s Heena Aggarwal, Civil Judge Junior Division, Jalandhar” and on account of the said error, the Civil Judge (Junior Division) had returned the said draft and directed the petitioner to deposit 60% of the amount assessed till 01.12.2023. It is further submitted that the said draft is still in the Court file and it is further argued that on account of the fact that the petitioner had gone to Rajasthan for attending the marriage of the daughter of his sister which was held on 08.12.2023, the said direction of depositing the said draft within one day could not be complied with and accordingly the order dated



01.12.2023 was passed, which is the subject matter of challenge in CR-2426-2024, vide which defence of the present petitioner was struck off. It is also submitted that the petitioner is ready to pay the entire amount of Rs.23,38,875/- within a period of 8 weeks from today and is further ready to pay the costs of Rs.10,000/- to the respondent and has prayed that the order dated 01.12.2023 be set aside and the petitioner be granted an opportunity to cross-examine the witnesses of the landlord including two witnesses i.e. PW1 and PW2, whose evidence in chief has been recorded.

7. Learned counsel for the respondent has submitted that the petitioner be bound by the abovesaid statement of making the payment of the entire amount along with costs of Rs.10,000/- within the aforesaid period and it is prayed that in case the said amount is not paid, then the present petition be deemed to be dismissed.

8. Keeping in view the abovesaid facts and circumstances, the revision petition i.e. CR-2426-2024 is partly allowed and order dated 01.12.2023 is set aside subject to the following conditions:-

- i) The petitioner will prepare a demand draft in the name of respondent-Maninder Singh of an amount of Rs.23,38,875/- within a period of eight weeks from today and would deposit the same within the aforesaid period before the Rent Controller, who would further hand over the same to the respondent-Maninder Singh.
- ii) The petitioner would also prepare a demand draft of an amount of Rs.10,000/- as costs in the name of respondent-Maninder Singh and also deposit the same before the Rent Controller within the aforesaid period and the Rent Controller is also directed to hand over the said



- demand draft to the respondent.
- iii) It is made clear that the payment of the said amount of Rs.23,38,875/- would not be construed as an admission on the part of the petitioner-tenant and it would be open to the petitioner as well as respondent to raise all the pleas which arise in the present case including the pleas with respect to the rate of rent and the Court would decide the same independently and in accordance with law at the time of finally adjudicating the case.
- iv) The petitioner would be given an opportunity to cross-examine the witnesses of the landlord including two witnesses i.e. PW1 and PW2 who have been examined in chief. The same would however be subject to the petitioner not unnecessarily delaying the proceedings.
- v) It is made clear that in case the said amount as mentioned in Sub-Clause (i) and (ii), is not deposited within the aforesaid period, then the present petition would be deemed to be dismissed.
- vi) In case the old demand draft is still in the Court file, the petitioner would be permitted to take the said demand draft back.
9. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

30.07.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**