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

1.

CR-1841-2015 (O&M)
Date of Decision : 21.11.2024
- Iqbal Singh

... Petitioner(s)
- Versus
- SS Gill (deceased) through LRs & Anr

... Respondent(s)
2.

CR-1842-2015 (O&M)
- Iqbal Singh

... Petitioner(s)
- Versus
- SS Gill (deceased) through LRs & Anr

... Respondent(s)
3.

CR-3834-2016 (O&M)
- Jasmer Kaur and Ors

... Petitioner(s)
- Versus
- Iqbal Singh & Anr

... Respondent(s)
4.

CR-3836-2016 (O&M)
- Jasmer Kaur and Ors

... Petitioner(s)
- Versus
- Iqbal Singh & Anr

... Respondent(s)
5.

CR-2278-2015 (O&M)
- Iqbal Singh

... Petitioner(s)
- Versus
- SS Gill (deceased) through LRs & Anr

... Respondent(s)
6.

CR-2279-2015 (O&M)
- Iqbal Singh

... Petitioner(s)
- Versus
- SS Gill (deceased) through LRs & Anr

... Respondent(s)



CR-1841-2015 (O&M)

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CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amit Jain, Senior Advocate with
Mr. Varun Parkash, Advocate
for the petitioner in CR Nos.1841 & 1842 of 2015.

Mr. Divanshu Jain, Advocate with
Mr. Minkal Rawal, Advocate
for the petitioner in CR Nos.2278 & 2279 of 2015 and
for the respondent in CR Nos.3834 & 3836 of 2016.

Mr. Surinder Gandhi, Advocate
for the petitioners in CR Nos.3834 & 3836 of 2016,
for the respondents in CR Nos.1841 & 1842 of 2015,
CR Nos.2278 & 2279 of 2015.

ALKA SARIN, J. (Oral)

1. The present order shall dispose off the above captioned six revision petitions. The parties are being referred to as landlord and tenant for the sake of clarity.

2. CR No.1841 of 2015 and CR No.1842 of 2015 have been preferred by the tenant challenging the orders dated 30.03.2011 and 31.01.2015 passed by the Rent Controller and the Appellate Authority, respectively. The tenant has also filed CR No.2278 of 2015 and CR No.2279 of 2015 challenging the order dated 31.01.2015 assessing mense profits. CR No.3834 of 2016 and CR No.3836 of 2016 have been preferred by the landlord challenging the orders dated 28.02.2014 and 31.01.2015 passed by the Rent Controller and the Appellate Authority, respectively, dismissing the ejectment applications.

3. In the present cases, the brief factual background needs to be adverted to.

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4. The landlord is co-owner and landlord of SCO Nos.83-84 (Basement), Sector 17-D, Chandigarh and the tenant is in possession of the basement and portion of the ground floor. Two separate eviction petitions were filed by the landlord in 1998 for ejectment of the tenant from the basement and portion of the ground floor amongst others on the grounds of subletting and change of user. The ejectment was ordered by the Rent Controller vide order dated 30.03.2011 on the grounds of subletting and change of user. Aggrieved by the same, appeal was preferred which was dismissed by the Appellate Authority on 31.01.2015 in both the ejectment applications filed by the landlord.

5. On 02.03.2001 the landlord filed another ejectment application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for eviction of the same tenant from the basement of SCO Nos.83-84, Sector 17-D, Chandigarh on the grounds of subletting and change of user. The said ejectment application was dismissed vide order dated 28.02.2014. Another ejectment application was filed by the landlord under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for eviction of the tenant from the ground floor of SCO Nos.83-84, Sector 17-D, Chandigarh amongst others on the grounds of personal necessity, change of user and subletting. The said petition was also dismissed by the Rent Controller vide order dated 28.02.2014. The appeals preferred by the landlord against dismissal of his ejectment applications were dismissed by the Appellate Authority vide order dated 31.01.2015.

6. Two revision petitions (CR No.2278 of 2015 and CR No.2279 of 2015) have arisen from an order passed by the Appellate Authority on

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31.01.2015 assessing mesne profits for the basement as well as for the ground floor @ Rs.1,00,000/- each. The challenge in the said revision petitions is to the order dated 31.01.2015 assessing mesne profits in proceedings qua which CR No.1841 of 2015 and CR No.1842 of 2015 have been filed.

7. Thus the six revision petitions are – two by the tenant against the orders of both the Authorities ordering his eviction; two by the landlord against the orders of both the Authorities dismissing the ejectment applications; and two by the tenant against the orders passed by the Appellate Authority assessing the mesne profits.

8. Mr. Amit Jain, learned senior counsel appearing for the tenant in CR Nos.1841 and 1842 of 2015 and Mr. Divanshu Jain, learned counsel appearing for the tenant in CR Nos.2278 and 2279 of 2015 would contend that the very same Appellate Authority on the same day has given two conflicting orders - in one, on the same very grounds, ejectment has been ordered and in the other, on the same very grounds, the appeal preferred by the landlord dismissing his ejectment application has been dismissed. It is further the contention of the learned counsel that in proceedings qua which CR No.1841 of 2015 and CR No.1842 of 2015 have been filed, after the case had been reserved, an application for assessment of mesne profits was filed, which was entertained, and mesne profits were assessed vide a separate order of even date i.e. 31.01.2015.

9. Mr.Surinder Gandhi, learned counsel appearing for the landlord is not in a position to deny that on the same very date i.e. 31.01.2015, four conflicting orders have been passed by the Appellate Authority. It is,

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however, contended that the application for assessing mesne profits was filed on the day the case was fixed for arguments and not after the case was reserved.

10. I have heard the learned counsel for the parties.

11. In the present case, strangely the Appellate Authority before whom four eviction cases were listed pertaining to the very same property, has passed conflicting judgments qua the same very property and between the same parties. It is incomprehensible as to how an Authority who is dealing with the cases simultaneously on the same date can pass conflicting judgments in cases between the same party and pertaining to the same premises on the same grounds. This Court refrains itself from commenting on the conduct of the Appellate Authority, however, keeping in view the glaring facts, as noted above, the impugned orders of the common date i.e. 31.01.2015 passed by the Appellate Authority in CR No.1841 of 2015, CR No.1842 of 2015, CR No.3834 of 2016 and CR No.3836 of 2016 are set aside and the matter is remanded back to the successor Appellate Authority concerned for a decision afresh on merits without being influenced by the findings returned by the predecessor Appellate Authority in the impugned orders. Since the two eviction orders dated 31.01.2015 passed by the Appellate Authority are being set aside, the two revision petitions (CR No.2278 of 2015 and CR No.2279 of 2015) against the order dated 31.01.2015 assessing mesne profits are also allowed and the matter regarding assessment of mesne profits is also remanded to the successor Appellate Authority concerned for a decision afresh on merits without being

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influenced by the findings returned by the predecessor Appellate Authority in the impugned orders. The parties shall appear before the Appellate Authority concerned on **10.12.2024** at 10:00 am.

12. It has been brought to the notice of this Court that the tenant has been paying mesne profits @ Rs.1,00,000/- per month for each of the premises, which have been deposited in the Treasury. The said amount be deposited in an FDR and the FDR shall be kept alive till the decision of the matters by the Appellate Authority.

13. The present revision petitions stand disposed off. Pending applications, if any, also stand disposed off.

21.11.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO