

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.1133 of 2015
Date of decision:19.02.2015

Rinku

....Petitioner

Versus

Rita Singhanian & others

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Ghulam Nabi Malik, Advocate, for the petitioner.

G.S.Sandhawalia J.(Oral)

Challenge in the present set of revision petitions, being CR Nos.1133, 1140, 1141, 1153 & 1157 of 2015, is to the order dated 27.01.2015 (Annexure P3), passed by the Rent Controller, Ludhiana, vide which the provisional rent was assessed and the tenant was directed to pay the same to the landlord on 21.02.2015.

Counsel for the petitioner submits that he wishes to withdraw the present revision petitions and seeks liberty to approach the Appellate Authority, in view of the judgment of the Division Bench of this Court in **Tirlok Singh Anand Vs. M/s Prem Chand & sons & others 2012 (4) CCC 87** and the order passed by this Court in CR No.7629 of 2014 titled *Taninder Tandon Vs. Dr.Anjan Parkash Kaur* decided on 14.11.2014, wherein it was held as under:

“The Division Bench decided the issue as to which of the orders are appealable before the Appellate Authority and which are revisable. After noticing the 3 questions which were referred by the Learned Single Judge, it was held that the notification dated 14.07.1947 would be applicable to the orders passed by the Rent Controller under Sections 4, 10, 12 and 13 of the Act and they would be appealable orders. Other orders which did not come under the provisions of the said Sections would be revisable under Section 15. The following questions were under consideration

before the Division Bench:-

“(a) If the notification dated 14.04.1947 is still holding the field by which only an order passed under Sections 4, 10, 12 & 13 is made appealable, then whether all orders passed by the Rent Controller have become appealable in terms of the notification No.4137/2-CII-76/17354 dated 29.04.1976 issued by the Government of Punjab?”

*“(b) Whether the observation of the Supreme Court in para No.25 of the **Harjit Singh Uppal Vs. Anup Bansal** (Supra) i.e. (2011) 11 SCC 672, while referring to Section 15(1)(b) of the East Punjab Urban Rent Restriction Act, 1949 only, is an observation in context of the facts of that case as there was no issue of maintainability of appeal or revision arising out of interlocutory orders before it and there is no reference to Section 15(5) of the Act or Section 15(6) of the Haryana Urban (Control of Rent and Eviction) Act, 1973?”*

“(c) Whether the orders passed by the Rent Controller during the proceedings exercising its inherent powers like in the case of amendment of pleadings, impleadment of parties, setting aside of ex parte proceedings, restoration of petition etc. etc... are revisable under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949?”

The answer by the Division Bench was as under:-

“Therefore, we answer the questions framed by holding that in terms of the notification dated 14.04.1947, orders passed by the Rent Controller under Sections 4, 10, 12 & 13 alone are appealable in both the States of Punjab and Haryana and that all other orders passed by the Rent Controller are not subject matter of appeal. Orders other than the orders which are appealable, can be disputed only by way of a revision petition before this Court.”

Thus, it is apparent that the order of provisional assessment is also an order which is passed under the provisions of Section 13 of the Act and, therefore, would be appealable.”

Counsel for the petitioner, however, submits that the date for payment is looming large on 21.02.2015 and it would take some time to file the appeals and the eviction order shall be passed by the Rent Controller, if payment is not made on the said date.

Accordingly, keeping in view the above facts, the present revision petitions are disposed of with liberty to approach the Appellate Authority within a period of 10 days from today. In the meantime, the Rent Controller shall not pass the ejectment orders on the ground of non-payment of the provisional rent for a period of 2 weeks, as assessed, since the petitioners are prosecuting their legal remedies under a *bona fide* presumption. However, it will be open to the Appellate Authority to pass appropriate orders for protecting the petitioners, in case the petitioners are able to show a *prima facie* case.

19.02.2015
sailesh

(G.S.SANDHAWALIA)
JUDGE