

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 1238 of 2015 (O&M)
Date of decision: 30.06.2015

Ranjit Gill

... Petitioner

versus

Rosy Pathak

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Surinder Avinash K. Sharma, Advocate for the petitioner.

Mr. Jag Nahar Singh, Advocate for the respondent.

K.Kannan, J.

The revision petition is against the order determining the provisional rent by the Rent Controller, Mohali, without going into the issue of the jurisdiction with regard to the revision petition before this Court. I would hold that the order passed by the Rent Controller would require an interference with regard to his finding that rent has not been paid from January 2014 to April 2014, having regard to the fact that as per the bank statement rents have been paid for these months and the counsel appearing for the landlord is also prepared to accept the same. The counsel for the respondent however states that the Rent Controller had not considered the fact that the tenant had not paid for October 2008, March 2009 and May 2011. Although the landlord himself had not filed any revision, I would find that it is possible for him to contend that the order is wrong for any other reason, if all that he is interested to secure a support at least for the amount already determined. The counsel for the petitioner-tenant had no answer or proof for payment of rent for these three months except to state that the period relates to a time before 3 years from the date of the institution of the petition.

It is not a suit for recovery of amount when a plea of limitation could be taken by a tenant. The law of limitation itself does not extinguish the right but only prevents a remedy from being exercised. If a tenant must enjoy

the liberty of defence in a petition for eviction by the landlord, he has perforce to pay all the rent that is payable. While holding that the Rent Controller was in error in deciding that no rent was paid from January 2014 to April 2014, in the light of the clear documentary evidence produced by the tenant, I will find that the direction for payment of rent for 4 months was erroneous. The order, however, not directing the tenant to pay rent also for the 3 months, namely October 2008, March 2009 and May 2011, the period for which proof of payment of rent is not available, the tenant will become liable to pay the rent. This would make for an adjustment that will result in a deduction of rent for one month only, namely Rs. 70,000/- out of the amount that has been determined by the Rent Controller as payable. The amount will, therefore, be Rs. 1, 05, 105.80. The amount is directed to be paid within a period of two weeks from today. If the amount is paid, further proceedings would continue. If the amount is not paid, the tenant will be taken as not having complied with the direction and summary ejectment will follow, that is capable of being executed before the Court below.

The order of Rent Controller is modified and the revision petition is allowed on the above terms.

30.06.2015

kv

(K.KANNAN)
JUDGE