

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

**Civil Revision No.1408 of 2015 (O&M)  
Date of Decision: February 27, 2015.**

Chandi Dass

**.....PETITIONER(s).**

**VERSUS**

Smt. Manmohan Kaur

**....RESPONDENT(s).**

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Aalok Jagga, Advocate  
for the petitioner (s).

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**SURINDER GUPTA, J.**

This revision petition is directed against the order of Rent Controller, Chandigarh dated 13.02.2015, whereby the provisional rent of the demised premises was assessed.

Respondent Manmohan Kaur filed petition under Section 13 of East Punjab Urban Rent Restriction Act, 1949 (in short the Act) seeking ejectment of the revision petitioner from the demised premises on the ground of non-payment of rent from 01.04.2013 onwards @ ₹6,000 per month and for her personal bona fide necessity.

On the question of rate of rent, she relied on rent agreement dated 17.12.2008 executed by the revision petitioner.

In reply, the revision petitioner admitted the tenancy but

contested the rate of rent alleging the same as ₹3,000 per month. The rent agreement dated 17.12.2008 was termed as forged and fictitious document, not admissible in evidence being not on required stamp papers. This fact was, however, not denied that the rent w.e.f. 01.04.2013 was outstanding.

While assessing the provisional rent, the Rent Controller relied on the pleadings and the rent agreement produced on record by the respondent-landlord.

Learned counsel for the revision petitioner has argued that the rent agreement, copy of which is Annexure P-2, was not on required stamp papers, as such, the Rent Controller could not take the terms mentioned therein into consideration. In support of his contention, he has relied upon the observations in case of *Naina Thakkar Vs. M/s. Annapurna Builders 2013(14) SCC 354; Lakkaraju Radha Krishna Vs. Pyarle Sri Rama Sarma and others 2007(1) ALT 460; M/s Hundai Motor India Ltd Vs. M/s Opal Metal Engineering Pvt. Ltd. 2009 AIR (Delhi) 1; Smt. Bimla Rani Gupta Vs. S.R. Sachdeva 2000(1) ArbiLR 437; Mohan Lal Sareen Vs. State of U.P. 2010 AIR (Allahabad) 153 and Swantantar Kumar Vs. Kamal Dev Bawa 1988(1) R.C.R. (Rent) 250.*

In the instant case, Rent Controller has assessed the provisional rent on the basis of pleadings of the parties and documents on record. This fact is not disputed that rent after 01.04.2013 has not been paid. There is no document to support the contention of the revision

petitioner that the demised premises comprised of two parts and the rate of rent of front room was ₹1,000 and remaining two rooms was ₹2,000 i.e. total ₹3,000 per month. At the time of assessment of provisional rent, the Rent Controller has to look into the pleadings and the documents on file. The Rent Controller has considered the rent agreement executed by the revision petitioner on 17.12.2008, which contains all the terms of the tenancy created in favour of revision petitioner for a period of 11 months. The mere fact that this rent agreement was written on the stamp paper of ₹5 is no reason to ignore this document while looking into the terms of the tenancy.

The citations referred by learned counsel for the revision petitioner relate to the matter alien to the controversy in this revision petition. None of the citations relates to the assessment of provisional rent by the Rent Controller. It is settled proposition of law that the onus to prove the rate of rent lies on the landlord. However, this legal proposition is relevant if the case is decided on merits. While assessing the provisional rent, the Rent Controller has to look into the pleadings and the documents placed on file by the parties. In case, while deciding the petition on merits, the tender made is found short or in excess, the Rent Controller is competent to pass the order directing the tenant to pay the amount which was short or for the refund/adjustment of the amount, paid in excess, as per the order assessing the provisional rent.

The Rent Controller has committed no error of law or fact

while passing the impugned order, calling for no interference.

This revision petition has no merits. Dismissed.

**February 27, 2015.**  
*Sachin M.*

**( SURINDER GUPTA )**  
**JUDGE**