

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

**CR No.2209 of 2014(O&M)
Date of Decision : 17.3.2015**

Joginder Kaur

.....Petitioner

Versus

Gurudwara Shri Nanaksar Shahid Baba Bachittar Singh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. Ajay Kumar Sharma, Advocate for the petitioner.

GURMIT RAM, J.

CM No.5736-CII of 2014

For the reasons mentioned in the application, the same stands allowed and delay of 21 days in refiling the revision petition stands condoned.

CM stands disposed of accordingly.

CR No.2209 of 2014

This revision petition under Article 227 of the Constitution of India for setting aside the impugned order dated 20.5.2013 passed by the learned Rent Controller, Ludhiana and the order dated 25.10.2013 passed by the learned Appellate Authority, Ludhiana has been preferred by the petitioner-tenant Joginder Kaur.

2. The facts in nutshell relevant for the disposal of this revision petition are that the respondent – landlord filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short – 'the Act')for ejectment of the petitioner–tenant from room Nos.7 and 8

of Gurudwara Shri Nanaksar Shahid Baba Bachittar Singh, Basti Mani Singh, Rahon Road, Ludhiana (hereinafter referred to as the 'demised premises') on the plea that she has failed to pay the rent w.e.f. 1.5.2006 @ Rs.2,000/- per month, besides house tax. Even a legal notice dated 22.3.2007 was served upon her, but to no effect. On receipt of notice of this petition, the petitioner-tenant filed her reply taking preliminary objection regarding its maintainability. It was further her plea that she is a tenant in demised premises @ Rs.800/- per month including house tax etc. etc. It was denied that she is the tenant in the demised premises @ Rs.2,000/- per month or that she had not tendered the rent of said rooms w.e.f. 1.5.2006. She had paid the rent up to 31.7.2006 @ Rs.800/- per month against receipt.

3. After completion of pleadings of the parties, the learned Rent Controller made assessment of provisional rent vide order dated 17.4.2013 and the case was adjourned to 20.5.2013 for tendering the provisional rent as assessed by that Court.

4. On the adjourned date i.e. 20.5.2013, the present petitioner – tenant did not make any tender or paid provisionally assessed rent. The learned Rent Controller in view of the principle as laid down in **Rakesh Wadhawan Versus M/s Jagdamba Industries Corporation, 2002(1) R.C.R. 514**, accepted the ejectment petition and ordered the ejectment of the respondent (petitioner herein) from the demised rooms vide order dated 20.5.2013 (Annexure P-1). Then she preferred an appeal against this order before the learned Appellate Authority, Ludhiana which was dismissed vide judgment dated 25.10.2013 (Annexure P-2) and the

impugned order (Annexure P-1) was affirmed.

5. Now the petitioner feeling aggrieved from both the above-said orders passed by the Courts below has preferred this revision petition before this Court.

6. Learned counsel for the petitioner - tenant has contended that the impugned orders are illegal, arbitrary, unwarranted and are result of non-application of judicious mind and hence not tenable in the eyes of law. It is further his contention that the petitioner – tenant is a widow lady and there is no male member in the family to help her. Further she was not feeling well on 19.5.2013 and the doctor had advised her complete bed rest for three days. In this connection OPD slip dated 19.5.2013 is placed on the file as Annexure P-7. But in the impugned order Annexure P-1, it has been recorded in its para No.8 that respondent (present petitioner-tenant) came present before post lunch session and requested to make payment of provisional rent after 1:30 p.m. Thereafter, neither she appeared nor any tender with regard to provisionally assessed rent was made. In this order it has not been recorded that the petitioner – tenant was ill on 19.5.2013 nor any request for adjournment for tendering the provisionally assessed rent on this ground was made. So, there is nothing wrong in both the impugned order/judgment.

7. So far the alleged rent receipts (Annexure P3 to P6) annexed with this revision petition are concerned, these were not brought on the record or produced before the learned Rent Controller as well as before the learned Appellate Authority at any stage, so these cannot be considered in this revision petition, for the reason that these were not

produced at the proper/relevant time before the authority concerned nor the same are formally proved as per the law of evidence.

8. In view of the above discussion, this revision petition stands dismissed and disposed of accordingly.

17.3.2015
Brij

(GURMIT RAM)
JUDGE

1. To be referred to the Reporters or not? Yes
2. Whether the judgment should be reported in the Digest? Yes