

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

CR No. 3404 of 2013 (O&M)
Date of decision: August 6, 2015

M/s Ram Chander Narinder Kumar Jain and others

...Petitioners

Versus

Sushil Mohan Gupta and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. SKS Bedi, Advocate,
for the petitioners.

Mr. Sanjay Jain, Advocate,
for respondent No.1.

K. KANNAN, J. (Oral)

1. The revision is at the instance of the tenant who is ordered to be evicted by the Rent Controller for non-payment of provisional rent fixed at ₹400/- per month. Against the order of ejectment, the tenant preferred an appeal contending that the rent was only ₹25/- per month and not ₹400/-, as claimed by the landlord. He also made a reference to the fact that the landlord had sought eviction in earlier period for rent through yet another petition filed on 14.3.2011 where again there was a similar dispute as regards rent payable for the property. The Appellate Authority dismissed the appeal filed by the tenant and reiterated that the rent payable was only ₹400/- per month.

2. Learned counsel appearing on behalf of the tenant submits that in the proceedings initiated by the landlord earlier through the petition filed on 14.3.2011 there has been a final adjudication made finding the rent to be only ₹25/- as claimed by the tenant. It appears that the landlord preferred an appeal against this order and the appeal has also been dismissed affirming the adjudication that the rent was only ₹25/-. It is stated that there were other grounds also but for our purpose it is sufficient to refer to the determination done at ₹25/-.

3. Between a provisional adjudication for the rent payable and a final adjudication between the same parties, evidently it shall be the final adjudication in the rent proceedings that ought to prevail. The order of eviction that has been made on basis that the rent was not paid at ₹400/- determined provisionally ought to give place to an adjudication made in the earlier proceedings and consequently the order of ejectment issued also would require to be set aside.

4. It appears that the landlord contemplates further proceedings against the order determining the rate of rent at ₹25/- along with other grounds before this court. As of now, the ejectment order for non-payment of the provisional rent determined cannot be supported and the order of summary rejection made is bound to be set aside. This will only conclude an adjudication at the preliminary stage and the proceedings will be restored before the Rent Controller for adjudication in accordance with law. The observations made in this court is only for the purpose of disposal of the revision petition and will not bar the landlord from putting forth his own pleas against the rate of rent which is still at issue and which according to the landlord has not become final.

5. The parties shall appear before the Rent Controller on 1.9.2015.
6. The revision is allowed in the above terms.

August 6, 2015
prem

(K.KANNAN)
JUDGE