

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

**CR No.4213 of 2015 (O&M)
Date of decision : July 08, 2015**

Geeta Devi Sharma

..... Petitioner

Versus

Ajudhaya Nath Goel

..... Respondent

CORAM : HON'BLE MR.JUSTICE GURMIT RAM

1. To be referred to the Reporters or not? No / Yes
2. Whether the judgment should be reported in the Digest? No / Yes

Present : Mr. S.K. Choudhary, Advocate,
for the petitioner.

GURMIT RAM, J.

1. This revision petition is preferred by the tenant (petitioner-
herein) against the order dated 09.09.2014 passed by the learned Rent
Controller, Pathankot, vide which the ejectment petition filed under Section
13 of the East Punjab Urban Rent Restriction Act, 1949 (in short the Act)
for eviction of tenant from demised premises was accepted and judgment
dated 09.04.2015 passed by the learned Appellate Authority, Pathankot vide
which the appeal preferred against the aforesaid order of learned Rent
Controller was dismissed.

2. The facts in brief relevant for the adjudication of instant

revision petition are that (respondent-herein) landlord filed an application under Section 13 of the Act for eviction of tenant from the demised premises on the ground of non-payment of rent at the rate of ₹1,000/- per month for the last 3 years.

3. Upon notice tenant appeared and filed his reply taking preliminary objections that the landlord (respondent-herein) has not come to Court with clean hands and that ejectment application is not maintainable. On merits, it is admitted that landlord is the owner of demised premises.

4. After hearing learned counsel for both the parties learned Rent Controller assessed the provisional rent of the demised premises at the rate of ₹150/- per month and ordered payment of arrears of rent w.e.f. 01.06.2008 to 30.05.2014 along with interest and cost of petition vide order dated 22.05.2014. The case was then adjourned to 02.07.2014 for tendering the arrears of rent etc. as provisionally assessed. On the next date of hearing instead of tendering the rent etc., the tenant filed an application for the grant of adjournment seeking extension of time to tender the arrears of rent which was contested by the landlord. After hearing learned counsel for both the parties, the Rent Controller came to the conclusion that he has no jurisdiction to extend the time for tendering the rent as provisionally assessed and ordered to be paid on the first date of hearing. In these circumstances, he accepted the ejectment application thereby ordering the ejectment of tenant from demised premises on the ground of non-payment of arrears of rent as above provisionally assessed vide impugned order dated 09.09.2014. The tenant preferred an appeal against this order before the learned Appellate Authority, Pathankot which was dismissed vide impugned

judgment dated 09.04.2015.

4. Feeling aggrieved from the order as well as judgment passed by both the Courts below, the petitioner-herein (tenant) has come up before this Court by way of instant revision petition.

5. Learned counsel for petitioner was heard. Record as available on file was also perused.

6. It is admitted fact that the petitioner-herein was the tenant in the demised premises under the respondent-herein as the landlord. Then it is also admitted that rent qua the demised premises was assessed provisionally by the learned Rent Controller vide order dated 22.05.2014 which the tenant did not tender and ultimately the ejectment order was passed against him for evicting him from the demised premises. Appeal preferred by him against this order was also dismissed by the competent authority concerned.

7. The learned counsel for the petitioner-herein (tenant) contended that tenant is an old widowed lady of about 70/75 years and as such, she could not appear on the date fixed for tendering the provisionally assessed rent etc. She also filed an application for the adjournment on the said date i.e. 2.7.2014 which was not considered by the learned Rent Controller. It is further his contention that both the impugned order as well as judgment have been passed in haste without applying judicious mind and same are also stated to be perverse, illegal, null and void and hence not tenable in the eyes of law.

8. Mere old age of the tenant is no ground for the extension of the time earlier granted for the tender of the arrears of provisionally assessed

rent along with interest and cost of petition on the first date of hearing. If the tenant is unable to come present in the Court on the date fixed for aforesaid purpose then she/he as the case may be can direct her/his counsel to do the needful on her/his behalf by making requisite payment to him. Presence of the tenant is not at all required for tendering the arrears of the provisionally assessed rent etc. on the first date of hearing. His/her counsel can do so very much on his/her behalf in his/her absence. Then it is settled law as laid down by the Hon'ble Apex Court in ***Rakesh Wadhawan vs. Jagdamba Industrial Corporation 2002 (1) R.C.R. (Rent) 514***, that if the tenant does not tender the provisionally assessed rent along with interest and cost on the first date of hearing fixed by the learned Rent Controller after assessing the provisional rent then the ejectment of the tenant from the demised premises is to be followed with no other alternative.

9. The case law referred to by the learned counsel for the petitioner (tenant) as laid down in ***Dina Nath (D) by LRs and another vs. Subhash Chand Saini and other, 2014 (1) R.C.R. (Rent) 486*** is on entirely different footings than the facts of the case in hand. The act and conduct of the present petitioner (tenant) does not suggest that her absence from the Court on the date in question shall be justifiable for the grant of extension of time to tender the arrears of rent as provisionally assessed, which moreover otherwise is not legally permissible as per ***Rakesh Wadhawan's*** case law cited supra.

10. So this revision petition being merit-less stands dismissed and disposed of accordingly.

But keeping in view the fact that the tenant is an old aged lady

of 70/75 years, she is granted two months time to vacate the demised premises and deliver its vacant possession to the respondent-herein (landlord) from the date of this order subject to condition that she will pay the rent during this period by 11th of each month and all the arrears of rent / mesne profit, if any, within 15 days from today.

July 08, 2015
Gaurav Sorot

(GURMIT RAM)
JUDGE