

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

CR No.5532 of 2014 (O&M)
Date of Decision: 30.01.2015

Karan Singh

. . . .Petitioner

Versus

Bagichi Baba Devadass Kabir Panthi Ashram

. . . . Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Aman Bahri, Advocate,
for the petitioner.

Mr.Rohan Sharma, Advocate,
for the respondent.

RAKESH KUMAR JAIN, J. (ORAL)

The tenant is in revision against the orders of the Courts below by which he has been ordered to be evicted from the demised premises on the ground of short tender of rent.

In brief, the landlord filed the petition for eviction under Section 13 of the Haryana Urban Control of Rent Eviction Act, 1993 [for short 'the Act'] alleging that the petitioner is in arrears of rent w.e.f. 1.9.2011 to 31.01.2012 @ ₹237/- per month and w.e.f. 15.10.2010 to 30.8.2011 @ ₹77/- per month. The Rent Controller vide his order dated 9.3.2012 assessed only interest and costs. The order of the Rent Controller is reproduced as "*I assess interest ₹170/- and costs ₹400/-.*" The petitioner tendered the rent on 9.3.2012 to the tune of ₹1955/-, cost of ₹400/- and interest of ₹170/-, totaling ₹2425/-.. The rent was found to be short by ₹38.50

paisa by the Courts below as according to the calculation made by the Courts below it came out to be ₹1993.50 paisa.

Learned counsel for the petitioner has submitted that the Courts below have committed an error in not assessing the provisional rent by calculating the rent also at the time when interest and cost was assessed. In support of his submissions, he has relied upon a judgment of this Court rendered in **“Gurpreet Singh and another Vs. Brijinder Bhardwaj and another”** 2011(3) PLR 212.

On the other hand, learned counsel for the respondent has submitted that the petitioner was given a chance by the trial Court for making the payment of arrears of rent while assessing the costs and interest. Therefore, there is no error by the Courts below and the eviction has rightly been passed against him.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that the order passed by both the Courts below are patently illegal as it runs contrary to the decision rendered by this Court in the case of **Gurpreet Singh and another (Supra)**. It has been found by this Court that the eviction orders are being passed by the Rent Controllers on the ground of short tender of rent because the exact amount of rent was not used to be assessed by them. Thus, in the case of **Gurpreet Singh and another (Supra)** a direction was given to all the Rent Controllers in the States of Punjab, Haryana and Union Territory, Chandigarh, to assess the provisional rent by multiplying the rate of rent with the period for which it is due, calculate the exact amount of interest @ 6% and after assessing the cost, give an accurate amount to the tenant which he is supposed to

tender on the date fixed by the Court so that this kind of situation may not arise in future because this Court has experienced that Rent Controllers are neither calculating the amount of interest nor giving the accurate amount. The judgment in the case of **Gurpreet Singh and another (Supra)** was rendered by this Court on 4.3.2011 and Registry of this Court had circulated it to all the Rent Controllers in the States of Punjab, Haryana and Union Territory, Chandigarh but still the Rent Controller had assessed the alleged provisional rent on 9.3.2012 after one year of the judgment was rendered by this Court and circulated to him. There is a patent error in his approach as he did not calculate the provisional rent with cost and interest and there is no fault on the part of the petitioner, who should not be allowed to suffer.

Thus, the present revision petition is hereby allowed and the orders passed by the Courts below are set aside. The case is remanded back to the Rent Controller to assess the rent in accordance with the order passed by this Court in the case of **Gurpreet Singh and another (Supra)** and allow the petitioner to deposit the rent. In case, the amount which is to be assessed by the Rent Controller is not deposited by the tenant within a stipulated period, the Courts may pass orders in accordance with law.

30.01.2015*Vivek***(RAKESH KUMAR JAIN)
JUDGE**