

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

CR No.6669 of 2014

Date of decision : March 11, 2015

Gurminder Singh and others

..... Petitioners

Versus

Dr. Jagmal Singh and another

..... Respondents

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. Rajan Bansal, Advocate,
for the petitioners.

GURMIT RAM, J.

1. This revision has been filed by the petitioners against the order dated 14.07.2014 (Annexure P-1) passed by the learned Rent Controller, Bathinda, vide which the application dated 20.08.2013 of the petitioner for immediately passing the eviction order against the tenants-respondents from the demised premises has been dismissed. This order is stated to be wrong as well as illegal.

2. The brief facts pertaining to the background of this petition are that the petitioners filed a petition for ejectment of the tenants-respondents from the demised premises in the Court of learned Rent Controller, in which the respondents appeared. The learned Rent Controller after hearing both

the parties assessed the provisional rent and the total amount of arrear due on this count as ₹36,00,739.70/- including the interest and cost of petition vide order dated 07.01.2012 of the period w.e.f. 09.08.2007 till 31.01.2012.

3. Aggrieved from this order, the tenant preferred an appeal before the learned Appellate Authority, Bathinda, which stayed the operation of this order vide order dated 08.02.2012 but subject to paying of 30% of the amount of provisional rent as assessed by the learned Rent Controller vide order dated 07.01.2012 on 21.02.2012. Then being dissatisfied with this order, the petitioner (landlord) approached this Court vide CR No.1452 of 2012 which was disposed of vide order dated 17.10.2012 by a Co-ordinate Bench of this Court, the operative part of which is reproduced as under: -

“However, the interest of justice would be met if the provisional rent is assessed at ₹30,000/- per month. Learned counsel are agreed that on this basis the amount of rent due would be (rent + interest + cost of ₹1,000/- as adjudged by the learned Rent Controller) ₹21,14,650/-. Learned counsel for the respondent has stated that as per the order of the learned Appellate Authority, he had deposited an amount of ₹10,81,000/- odd on 21.02.2012. Let the respondent deposit the remaining amount as per today's order on or before 31.12.2012”.

The tenants made the compliance of this order and made the payment of arrears of rent as directed vide this order.

4. Thereafter the present petitioners filed the instant application before the Court of learned Rent Controller for immediately passing the

eviction order against the respondents from the demised premises on the plea that respondents had failed to pay any rent of the demised premises for the period from 01.02.2012 till date. Notice of the application was given to the tenants-respondents. The learned Rent Controller after hearing the learned counsel for both the parties dismissed this application vide impugned order dated 14.07.2014 (Annexure P-1). Against this order, now the petitioners, have again approached this Court vide the present revision petition.

5. I have heard the learned counsel for the petitioners and have also gone through the record minutely.

6. The main contention raised by the learned counsel for the petitioners is that the respondents-tenants have not paid any rent for the demised premises w.e.f. 01.02.2012 till date despite the fact that they are in its possession and as such order be passed for delivering immediate possession of the demised premises in favour of the petitioners whereby evicting the tenants therefrom. In support of his contention he has also relied upon certain case laws, which are as under:-

- i. Jamnalal and others vs. Radheshyam, 2000(4) SCC 380, which is under M.P. Accommodation Control Act, 1961;
- ii. Romesh Chander, Hissar vs. Kaushalya Devi, 1986(33) R.C.R. (Rent) 313 of this Court; and
- iii. Gurjit Singh Gill vs. Major Paramjit Singh Gothra, 2004(1) R.C.R. (Rent) 619 of this Court.

Both the authorities of this Court cited above are pertaining to the cases which were disposed of on merits after the trials thereof.

7. In the case in hand admittedly the rent petition filed by the

petitioners is still pending before the learned Rent Controller, Bathinda. Then it is also found mentioned in the impugned order that the petitioners have already filed a separate petition for ejectment on the ground of non-payment of rent w.e.f. 01.02.2012. Then there is no order of any Court for directing the tenants-respondents to pay the rent regularly subsequent to period involved in the rent petition. Whether the tenants are in arrears of rent or not qua any demised premises, it is a triable issue and they cannot be evicted summarily from the demised premises on the mere asking of the petitioners that they are not paying the rent of the demised premises.

8. In the light of the above discussion this revision petition is held to be neither maintainable nor it contains any substance and as such, the same stands dismissed and disposed of accordingly.

9. Nothing observed herein will have any effect on the merits of the ejectment petition which is stated to be pending in this case before the learned Rent Controller, Bathinda.

March 11, 2015

Gaurav Sorot

**(GURMIT RAM)
JUDGE**