

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 4457 of 2016 (O&M)

Date of Decision : 29.08.2016

Mandeep Singh

....Petitioner

Versus

Jaila and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. S.P. Soi, Advocate
for the petitioner.

Surinder Gupta, J.

This is revision petition against order dated 11.04.2016 passed by Rent Controller, Jalandhar, which is reproduced as follows:-

“Heard on application for passing ejectment order. Perusal of file reveals that provisional assessment of rent was made on 21.07.2015 and on 20.08.2015, the case was fixed for payment of rent. However, since undersigned was to proceed on leave on 20.08.2015 file was taken up on 19.08.2015 in absence of both the parties and the case was adjourned to 21.09.2015 for the purpose already fixed. Assertion of counsel for the petitioner that respondent failed to make payment of rent on first date of hearing carries no weight as first date of hearing after assessment of provisional rent was 21.09.2015. Further on 21.09.2015 respondent was ready to make payment of rent but applicant refused to accept the same. Accordingly, present application is hereby dismissed being devoid of merit. Now to come up on 07.05.2016 for payment of provisional rent as assessed by this Court.”

2. Learned counsel for revision-petitioner has argued that the date for payment of rent as assessed by learned Rent Controller was fixed as 20.08.2015, on which date learned Rent Controller was on leave. Tenant could tender the rent before Duty Magistrate but he has not done so, as

such, rent was not paid on first date of hearing. He has referred to office order issued by District and Sessions Judge, Jalandhar on 02.05.2008, whereby standing instructions were issued directing duty Magistrate to deal with urgent matters pertaining to Court of Presiding Officer, who has proceeded on leave on a particular date.

3. On giving a careful thought to submissions of learned counsel for revision-petitioner, I find no merit therein. Learned Rent Controller was on leave on 20.08.2015, the date fixed for payment of rent, as such, file was taken up on 19.08.2015 and date for tender of rent was fixed as 21.09.2015, on which date the rent was tendered but not accepted by revision-petitioner. Vide order dated 02.05.2008 issued by District and Sessions Judge, Jalandhar, duty Magistrate has to deal with urgent matters pertaining to Court of Presiding Officer, who has proceeded on leave on a particular date. There is no specific order that all the files in which rent has to be tendered also fall in category of urgent matters and are to be taken up by the Duty Magistrate. In this case, there was no occasion for production of file before the duty Magistrate as learned Rent Controller had already adjourned the same to 21.09.2015. Tenant had tendered the rent on first date of hearing fixed by the Rent Controller, as such, there was no occasion for learned Rent Controller to order ejectment.

4. On perusal of order passed by learned Rent Controller, I find no legal or factual infirmity therein calling for any interference. This revision petition has no merit and the same is dismissed.

August 29, 2016
jk

(SURINDER GUPTA)
JUDGE