

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

**CR No.911 of 2016 (O&M)  
Date of Decision : 25.02.2016**

Mrs. Madhu Randev

..... Petitioner

Versus

Bhupinder Singh and others

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

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Present : Capt. Arun Sharma, Advocate  
for the petitioner.

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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?

**AJAY TEWARI, J. (Oral)**

This revision has been filed against the order of the Appellate Authority granting time of two months to the tenant to deposit the rent.

The facts are that the petitioner had filed a petition for eviction of the respondent No.1-tenant on the ground that the rent was Rs.3000/- p.m. which the respondent No.1 had stopped paying since 2007. In reply the respondent No.1 took the plea that he had taken the premises on rent from the father of the petitioner and after the death of the father of the petitioner one nephew of the petitioner had started taking rent from him and he was paying the same to him in good faith. Thereafter, he came to know that Sh. Bal Mukand (grand-father of the petitioner) had executed a Will in

favour of Shailender Sharma (nephew of the petitioner) and even a petition for grant of probate of the Will was filed by him which was dismissed and against that the appeal was pending in the High Court. In these circumstances, the tenant claimed that in view of that dispute between the family members he did not pay the rent to the petitioner.

Learned counsel for the petitioner has argued that both the Courts below have found that in fact the father of the petitioner is the landlord and therefore the finding of the Rent Controller that, since the respondent was fully aware of the fact that Late Sh. Suraj Parkash Sharma (father of the petitioner) was one of the son of original owner Bal Mukand Sharma he was not entitled to any leniency, was the correct view in law and the order of the Appellate Court granting time of two months to the respondent No.1 to deposit the rent, was wrong.

The Appellate Authority held that in the face of the dispute between the family members of Late Sh. Bal Mukand Sharma the issue raised by the respondent No.1 was a triable issue and therefore granted time to the respondent No.1-tenant to deposit the assessed rent from the date claimed by the petitioner. In ***Rakesh Wadhawan and others vs. Jagdamba Industrial Corporation and others, reported as 2002(3) Civil and Rent Judicial Reports 387***, the Hon'ble Supreme Court in para No.6 has held as follows:-

*“6. We will first examine what is the rate of rent. It is admitted between the parties that the agreed rate of rent as recited in the deed of lease executed between the parties was Rs.2000/- but it was the case of the tenants that the rate of rent*

*so appointed was not intended to be acted upon. No reason has been assigned to show why the parties would have arrived at an agreed rate of rent of Rs.2000/- per month and yet chosen not to act upon it. The subsequent conduct of the parties belies the plea taken by the tenants. For several months rent has been paid at the rate of Rs.2000/- p.m.. We would to refer in particular to the contents of the letter dated 9.8.1985 written by the tenants to Ratan Devi, the then landlord wherein it is stated inter alia "we are forwarding herewith two cheques of Corporation Bank, cheque No.CA 78/770482 dated 9.8.1985 for Rs.4000/- being the amount of rent for June and July, 1985. Another cheque for United Commercial Bank, cheque No.256453 dated 9.8.1985 for Rs.2000/-, the rent of August, 1985 receipt of which please be acknowledged." The contents of this letter are neither disowned nor explained and this letter sinks a death-nail into the plea of the tenants. Apart from other evidence available on record, these two material pieces of evidence viz. the deed of lease and tenants' letter abovesaid accompanied by cheques, are enough to overrule the plea of the tenants and to hold that the rate of rent is Rs.2000/- p.m."*

Thereafter, the Hon'ble Supreme Court in para No.8 has held as follows and allowed opportunity to the tenant to deposit the rent:-

*"8. Though we are holding the rate of rent as Rs.2000/-p.m. excluding water and electricity charges but it cannot be denied that to begin with there was a serious dispute as to the rate of rent as to whether it was Rs.2000/-, and hence followed the dispute whether the amount tendered by the tenant in the suit along with interest and cost of application amounted to compliance with proviso under Section 12(2)(i), and if so, whether a decree for eviction could at all have been passed. All such disputes were genuine and not frivolous or just in air*

*without any basis.....”*

In my opinion, the principle behind that judgment would be applicable in this case too. In that case the issue was with regard to the rate of rent and here the issue is with regard to the fact that one of the heirs of Late Sh. Bal Mukand Sharma was the landlord and this issue also has to be held as '*genuine and not frivolous or just in air without any basis*'. Resultantly, no fault can be found with impugned order passed by the Appellate Authority.

Revision petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

**February 25, 2016**

*ashish*

**( AJAY TEWARI )  
JUDGE**