

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 1251 of 2017
Date of decision: 30.03.2017

Sandeep Kumar

....Petitioner(s)

Versus

Mrs. Adarsh Mehra

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Rakesh K. Kaundal, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the concurrent findings of the Courts below whereby, eviction has been ordered on account of non-tender of rent on the date fixed, which was 13.02.2015 by the Rent Controller, Amritsar. On account of the said fact, eviction was ordered keeping in view the judgment of the Apex Court in ***Rakesh Wadhawan and others vs. M/s. Jagdamba Industrial Corporation and others, 2002 (5) SCC 440.***

The plea raised by the petitioner-tenant is that the date was wrongly noted by his counsel as 13.03.2015 for tender and not 13.02.2015. Keeping the same plea, he had approached the Appellate Authority also. The Appellate Authority, vide detailed order dated 10.11.2016, noticed that the presence of the counsel on the date fixed for tender was depicted in the order itself of the Rent Controller and, therefore, it could not be said that the date had been fixed as 13.03.2015 and resultantly, keeping in view the judgment of the Division Bench of this Court in ***Rajan @ Raj Kumar vs. Rakesh Kumar, 2010 (2) PLR 201*** and the judgment in ***Nihal Singh***

Motors and others vs. Shama Malhotra etc., 2004 (3) PLR 389, the order has been upheld. It was further noticed that the date of knowledge was claimed to be 02.03.2015 and the appeal was thereafter filed only on 19.03.2015, though the copy had been prepared on 05.03.2015.

It is interesting to note that if the counsel's presence had been wrongly marked, the petitioner would have immediately gone back to the Rent Controller to submit that the order was passed in the absence of the counsel and his presence had been wrongly marked. The Rent Controller would have been the best judge in such circumstances to recall its order if there was factual mistake as such. The said exercise was obviously not carried out. Nothing has also been brought on record that the counsel gave any affidavit before the Appellate Authority also to this extent that his presence was wrongly marked and the order was passed at his back.

Resultantly, this Court is of the opinion that on account of the non-tendering of ₹25,996/- which had been assessed on 03.01.2015, the eviction was rightly ordered on 13.02.2015 which was the date fixed for tendering the amount which is in consonance with law. The tenant chose not to pay the amount at his own peril and, therefore, faces the risk of eviction for which there is no scope for interference by this Court in revisional jurisdiction. The present revision petition is accordingly dismissed in limine.

30.03.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No