

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

Civil Misc. No.4490-CII of 2017 in/and
Civil Revision No.1451 of 2017(O&M)
Date of decision: 28.02.2017

Manju

...Petitioner

Versus

Joginder Singh and another

...Respondents

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

Present: Ms. Pratibha Yadav, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Civil Misc. No.4490-CII of 2017

Prayer made in the present Civil Misc. Application for granting exemption from filing certified/typed copies of impugned judgments and grounds of appeal is allowed.

The Civil Misc. Application stands disposed of accordingly.

Civil Revision No.1451 of 2017(O&M)

The petitioner-tenant is in revision against the concurrent findings of the Courts below whereby her eviction had been ordered on the ground of non payment of provisional rent.

It has been noticed by the Rent Controller, Bathinda that on 21.3.2014 provisional rent from 1.1.2008 to 1.11.2013 amounting to ₹ 63,000/- along with interest and costs were assessed and total amount of ₹ 74,840/- was ordered to be paid on or before 26.4.2014. Resultantly, payment was to be made on 26.4.2014 in view of judgment of the Apex Court in **Rakesh Wadhawan & others Vs. M/s Jagdamba Industrial Corporation & others** 2002(1) RCR (Rent) 514. On the said date, the

petitioner had only tendered ₹ 19,000/- and it was submitted that she had already paid ₹ 28,800/- to the landlord in an another case. The tender being short and invalid and not in accordance with the order of the provisional assessment was kept in mind while ordering eviction by the Rent Controller, Bathinda vide order dated 24.5.2014.

It is not disputed that thereafter possession of the premises in question has been taken by the Landlord.

In appeal, the Appellate Authority, Bathinda also noticed this aspect that the prayer to pay the remaining amount could not be adhered to once the amount had not been paid on the date fixed in view of the judgment of the Apex Court in **Rakesh Wadhawan's** case (supra).

The view taken in **Rakesh Wadhawan's** case (supra) was thereafter followed by in **Vinod Kumar Vs. Prem Lata 2003(11) SCC 397.**

That in **M/s Nihal Singh Motors & others Vs. Sharma Malhotra etc. 2004(3) CCC 681 (P&H),** it has been accordingly held that no further time could be given by the Rent Controller and on failure of the tenant to comply with the provisional order of assessment of rent nothing remained to be done and order of eviction was to follow.

The Division Bench in **Rajan @ Raj Kumar Vs. Rakesh Kumar 2010 (2) PLR 201** has held that once the tenant does not tender the rent there is nothing else to be done and eviction has to follow. Resultantly, the view taken in **Rajinder Lal Vs. Gopal Krishan 2006 (2) PLR 124** taking a contrary view was overruled.

This Court in **Mrs. Birinder Khullar Vs. Maninder Singh 2011 (3) PLR 38** has held that the Rent Controller would have no

jurisdiction to grant further time for tendering provisional rent, keeping in view the observations made by the Division Bench.

In **Gurvinder Singh Vs. Vinayak Bahal 2011(3) PLR 740**, the cheque tendered was dishonoured and this Court held that a deliberate attempt had been made by the tenant and law should not protect such a tenant and resultantly dismissed the petition with costs of ₹ 25,000/-.

Keeping in view the law settled by the Apex Court in **Rakesh Wadhawan's case (supra)**, the impugned order dated 24.05.2014 passed by the Rent Controller, Bathinda and order dated 07.12.2016 passed by the Appellate Authority, Bathinda do not suffer from any infirmity and illegality which would warrant interference by this Court in exercise of revisional jurisdiction.

Accordingly, the present revision petition is dismissed.

February 28, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No