

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

**Civil Revision No.1735 of 2017 (O&M)  
Decided on : 10.03.2017**

Mohd. Shahid

... Petitioner

Versus

Suleman

... Respondent

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

Present : Mr. Imran Farooqi, Advocate  
for the petitioner.

**G.S. Sandhawalia, J. (Oral)**

The petitioner-landlord is aggrieved against non-payment of the provisional rent on the first date, which was assessed on 04.09.2015 and it is his grouse that the rent was only tendered on 05.07.2016. The same has admittedly been received by him and the perusal of the said order would go on to show that no protest had also been raised at that point of time by the petitioner or by his counsel.

The application was filed for after a period of more than two and half months on 26.09.2016 and on the ground that in various judgments in *Chand Kumar Ahuja Vs. Gurdarshan Singh Gill 2012 (3) RCR (Civil) 530, Raj Bala Vs. Surender Singh 2012 (1) RCR (Rent) 90, Madan Lal Vs. Baldev Raj 2004 (2) RCR (Rent 93, Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation AIR 2002 SC 2004 and Rajan @ Raj Kumar Vs. Rakesh Kumar 2010 (1) RCR (Rent) 386* it has been held that eviction has to follow, if the amount is not tendered on the date fixed for tendering.

The Rent Controller has gone into the issue in detail and noticed that the date fixed for tendering the amount i.e. 25.09.2015 was declared a holiday. In view of that the file was taken up one day earlier and, thereafter, the case was adjourned to 24.10.2015. It is but obvious that the tenant could not have been tendered the amount one day earlier and he would not be in a position even to know that the case is going to be preponed as such and, therefore, no order could be passed at his back and it would be against the principles of natural justice. Thereafter, also the concerned officer was on maternity leave from 15.10.2015 to 11.04.2016 and the case was put up before the Duty Magistrate on various dates. Counsel for the petitioner was also present before the Duty Magistrate, but had not raised any objection as such at that point of time that the amount is not being tendered.

Eventually, when the officer took charge, on 05.07.2016 the tenant in compliance of the order immediately tendered the rent, which as noticed was accepted readily and without any protest.

The judgments which have been referred to by the counsel for the petitioner talk about the position where the tenant refuses to pay the rent on the date fixed. It is apparent that the principle "*actus curiae neminem gravabit*" will thus come into play that the act of the Court will not harm any party. Once, the Court itself was not in quorum and, there was no opportunity as such with the tenant to tender the amount, the argument that the judgment would be applicable is without any basis.

In such circumstances, the landlord cannot take the benefit

on this technicality. The order which has been impugned is well justified and a speaking order has been passed by the Rent Controller on 20.01.2017 (Annexure P-8) dismissing the application. There is no procedural infirmity in the order impugned and there is no scope for interference in the same. Accordingly, the present revision petition is dismissed in limine.

**MARCH 10, 2017**  
*Naveen*

**(G.S. SANDHAWALIA)**  
**JUDGE**

*Whether speaking/reasoned:*

*Yes/No*

*Whether Reportable:*

*Yes/No*