

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.204 of 2017 (O&M)
Date of decision: 17.01.2017

Surinder Kumar		Petitioner
	Versus	
Rupiner Singh		...Respondent

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

Present: Mr.Lalit Pathak, Advocate, for the petitioner.

G.S. SANDHAWALIA, J. (Oral)

Present petition has been filed by the petitioner-tenant, aggrieved against the order of ejectment, passed by the Rent Controller, Nabha on 30.08.2016 (Annexure P3), which has been upheld by the Appellate Authority on 20.12.2016 (Annexure P5). The ejectment has been ordered on the ground that provisional rent had been assessed on 29.07.2016 and the arrears of rent along with interest and costs were assessed at Rs.1,08,415/-. In spite of a period of one month having been gone, the petitioner failed to make the said payments on the said date, leading to the ejectment order. The Rent Controller placed reliance upon the law laid down by the Apex Court in ***Rakesh Wadhawan Vs. Jagdamba Industries, 2002 (1) RCR (Rent) 514***. Reliance was also placed upon the judgment of this Court in ***S.Nihal Singh Motors Vs. Shama Malhotra 2005 (1) RCR 41 (P&H)***. The Appellate Authority, keeping in view the said factual position, also dismissed the appeal on the ground that there was no illegality and infirmity in the order.

Counsel for the petitioner submits that the rent was assessed when the local Bar Council at Nabha was on strike and therefore, the petitioner had been prejudiced. However, now, the petitioner is willing to deposit the said

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amount.

The said argument cannot be accepted. As noticed, after the assessment, a period of one month had been given to deposit the said amount before the Rent Controller. The issue is no longer *res integra*. The Apex Court in **Rakesh Wadhawan's case** (supra) has held that once the payment is not made, the order of ejectment has to follow. The Division Bench of this Court in ***Rajan @ Raj Kumar Vs. Rakesh Kumar 2010 (2) PLR 201*** has clarified the issue that on the failure of the tenant to comply, nothing remains to be done and eviction, necessarily, has to follow. Resultantly, the view taken in ***Rajinder Lal Vs. Gopal Krishan, 2006 (2) PLR 124*** was overruled.

A Single Bench of this Court in ***Mrs. Birinder Khullar Vs. Maninder Singh 2011 (3) PLR 38*** 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 such circumstances, the orders passed do not suffer from any infirmity which would warrant interference. Accordingly, the present revision petition is dismissed.

January 17th, 2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No