

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

108

CR No.2775 of 2017

Date of decision: 05.05.2017

Mota Singh Sohal & another

....Petitioners

Versus

Abdul Aziz (dead) through his LRs & others

...Respondents

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

Present: Mr.Vikram Anand, Advocate, for the petitioners.

G.S. SANDHAWALIA, J. (Oral)

The present revision petition, filed by the petitioner-landlord, is directed against the order dated 03.01.2017 (Annexure P6), passed by the Rent Controller, Jalandhar, whereby the application for eviction was dismissed on the ground that the future rent was not paid as per the directions which were issued earlier on 18.03.2016 (Annexure P3).

It is not disputed that eviction has been sought on the grounds of arrears of rent @ Rs.2205/- per month from January, 2010 and Rs.2315/- per month from January, 2011, including arrears of House Tax from 01.04.2010. The same was contested by filing written statement by the respondent-tenant on the ground that payments have been made @ Rs.2100/- per month and there was no enhancement clause. Even the liability to pay House Tax was denied.

Provisional assessment was made on 18.03.2016 @ Rs.2100 only from 01.04.2010 till 29.02.2016, on the ground that the rent had not been paid and accordingly, after adding the interest and costs, the amount was assessed and directions were issued to pay the same on 21.04.2016. A condition was incorporated that the rent in future would be paid by the 10th

of each month. It is on account of this condition imposed, eviction, as such, has been sought that the tenant has not deposited the rent thereafter.

In reply to the said application, it was pleaded that after the tendering of the provisional rent, the attorney of the petitioner, namely, the Advocate, had been asked to accept the rent but he had lingered the matter on the one pretext or the other. The amount had been deposited in the bank account and the details were given in the application and therefore, it was held out that there is no default, as such. The application has, now, been dismissed on the ground that fresh cause of action may arise to the landlord and the application is without merit.

Admittedly, the case is now fixed for evidence of the petitioner and thereafter, the tenant will lead his evidence. The matter is to be adjudicated upon as to what is the rent and what is the amount due and whether the rent tendered was in excess or less and thereafter, the principles laid down by the Apex Court in **Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation 2002 (5) SCC 440** will come into play. It is, at that stage, for the Rent Controller to adjudicate as to whether there has been compliance, as such, of the payment of rent and necessary directions are to be issued, whether to refund the amount or give the tenant an opportunity to deposit the arrears. Only in case it is found that there is a consistent default, as such, the 6th principle would come into play, as to whether the tenant has paid or tendered with substantial regularity the rent falling due month by month during the pendency of the proceedings. In such circumstances, the application, at

the present stage, was not justified and the same has rightly been dismissed.

Accordingly, finding no merit in the present revision petition, the same is, hereby, dismissed in limine.

05.05.2017

Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No