

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 2826 of 2017 (O & M)

Date of decision: 28.04.2017

Gurmeet Singh

....Petitioner(s)

Versus

Devinder Kumar

...Respondent(s)

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

Present: Mr. Vivek Goel, Advocate,
for Mr. Nitin Rampal, Advocate, for the petitioner.

Mr. Anantdeep Singh Sandhu, Advocate,
for the caveator/respondent.

G.S.SANDHAWALIA, J. (Oral)

The eviction has been ordered by the Rent Controller, Faridkot on 07.05.2015 on the ground that the provisional rent was assessed on 07.03.2015 and the payment was to be made on 16.04.2015. The payment was admittedly not made on the said date and the counsel for the petitioner was present. However, inadvertently it is apparent that the case was fixed for 07.05.2015 for making payment and framing issues again, which is not permissible as the Rent Controller had no jurisdiction to extend the time which has been held by this Court in *M/s. Nihal Singh Motors and others vs. Shama Malhotra etc., 2004 (3) PLR 389*.

Thereafter, in *Sanjeet Singh vs. Mohali Motor Finance Co. and another, 2011 (3) PLR 15*, it has been held that the Rent Controller has no jurisdiction to extend the period of time of the provisionally assessed rent without any reason and on failure, eviction would have to be automatically follow. The relevant observations read thus:-

“9. It is now well settled by this Court that in
view of the decision rendered by the Division Bench of

this Court in Rajan alias Raj Kumar's case (supra), following the decision of the Supreme Court in Rakesh Wadhawan's case (supra), the Rent Controller has no jurisdiction to extend the period of time for tendering of provisionally assessed rent without any reason. In the present case, the learned Rent Controller has assessed the provisional rent on 22.01.2009 to be paid by the tenants on 24.02.2010, but the tenants failed to deposit the rent within the stipulated period and for that matter Rent Controller had no jurisdiction to extend the time for tendering of the provisionally assessed rent.

10. *Learned counsel for the respondents has also submitted that the case is at its fag end as the entire evidence has been concluded, however, it is disputed by learned counsel for the petitioner on the ground that the tenants have filed only their affidavits in their examination-in-chief.*

11. *Be that as it may, in view of the facts and circumstances of the present case and the law laid down by the Supreme Court in Rakesh Wadhawan's case (supra) and followed by the Division Bench of this Court in Rajan alias Raj Kumar's case (supra), the question of law, which has been framed in the beginning of the judgment, is answered in favour of the petitioner/landlord by observing that the Rent Controller has no jurisdiction to extend the period of time for the purpose of tendering provisionally assessed rent without there being any reason.*

12. *In view of the above, the present revision petition is allowed."*

The matter was then taken up on 07.05.2015 and the Rent Controller noticed the said aspect and accordingly passed the order of eviction keeping in view the legal position in mind. The appeal has been

dismissed on 18.12.2015 by the Appellate Authority. The petitioner chose not to file any revision before this Court under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949 (in short 'the Rent Act') for over one year. The revision was only filed on 19.04.2017 on account of the fact that the execution proceedings were initiated by the respondent.

Counsel for the petitioner has submitted that the amount, as assessed, will be deposited without any delay.

The said argument cannot be accepted. The eviction petition was filed way back on 18.04.2013. Initially, the petitioner had been proceeded against ex parte and on 09.12.2013, ex parte proceedings were set aside on an application filed by the petitioner. Thereafter, the reply was filed and the order of provisional assessment was made only on 07.03.2015. For the last 4 years, the petitioner has occupied the premises without paying the rent. The Division Bench in ***Rajan @ Raj Kumar vs. Rakesh Kumar, 2010 (2) PLR 201*** has held that once the payment of the provisional rent which is assessed is not made on the date fixed, nothing else is to be done but eviction is to follow. Resultantly, the orders passed by the Courts below are well justified and are not liable to be interfered with.

Another aspect which is to be noticed is even the present revision petition has been filed after a period of more than 1 year and 4 months. Though there may not be any prescribed period of limitation under the Rent Act, but this Court in ***Muni Lal vs. M/s. Yashpal Rai Parshotam Lal Soni, 1993 (1) PLR 323; Smt. Rama Talwar vs. Smt. Maya Devi, 1991 (2) PLR 109*** has held that where the revision is preferred after a long time, sufficient cause has to be shown. The conduct of the petitioner as such, thus, also goes on to show that it is a misconceived petition filed only to

harass the landlord to the maximum extent and continue in the premises without payment of rent and, therefore also, no indulgence can be granted to the petitioner.

Accordingly, the present revision petition is dismissed in limine.

28.04.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No