

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

208

CR No.3628 of 2015 (O&M)

Date of decision: 01.06.2017

Lakhwinder Singh

....Petitioner

Versus

Raj Kumar & another

...Respondents

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

Present: None for the petitioner.

Mr.V.K.Sandhir, Advocate, for the respondents.

G.S. SANDHAWALIA, J. (Oral)

The petitioner-tenant challenges the order of eviction dated 18.12.2014, passed by the Rent Controller, Amritsar, whereby on account of non-payment of the provisional rent, which was assessed on 11.11.2014, ejectment was ordered. The said order has been upheld in appeal by the Appellate Authority on 23.03.2015, keeping in mind the judgment passed by the Apex Court in Rakesh.

A perusal of the paperbook would go on to show that the amount was quantified to Rs.2,72,390/-, at that point of time and on account of non-payment of rent, eviction was ordered. Even during the pendency of the appeal, after assessment of the provisional rent, the stand of the tenant was that he was ready to make the payment but the same was never done. Indulgence was granted on 26.05.2015 by this Court to vacate, subject to clearing all the arrears within one month but the same was not done and resultantly, an application was filed bearing CM-19166-CII-2015, that the amount could not be arranged and therefore, permission be given to extend the time but the same was dismissed on 16.09.2015.

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 extent 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 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.

In such circumstances, no further indulgence can be granted to the tenant and consequently, the present revision petition stands dismissed.

01.06.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No