

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

**1. Civil Revision No.3328 of 2017(O&M)
Date of decision: 10.5.2017**

General Manager Telecom, Bharat Sanchar Nigam Ltd. and others

...Petitioners

Versus

Gaurav Singh

...Respondents

2. Civil Revision No.3337 of 2017(O&M)

General Manager Telecom, Bharat Sanchar Nigam Ltd. and others

...Petitioners

Versus

Gaurav Singh

...Respondents

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

Present: Mr. Anil Rathee, Advocate for the petitioners
(in both the petitions)

G.S.SANDHAWALIA, J. (Oral)

This order shall dispose of Civil Revision Nos.3328 and 3337 of 2017 as common questions of fact and law are involved in both these petitions.

The petitioners-tenants in Civil Revision No.3328 of 2017 challenge the order dated 9.8.2016 (Annexure P/3) whereby provisional rent was assessed at the rate of ₹ 33,000/- along with interest to the tune of ₹ 1,980/- and cost of ₹ 1,000/- and total a sum of ₹ 35,980/- was payable by the petitioners and to be tendered on 1.9.2016.

Similarly in Civil Revision No.3337 of 2017 challenge has been raised to the subsequent ejectment order passed on 1.9.2016

(Annexure P/6) on the ground of non tender of rent on the said date which has been further upheld by the Appellate Authority, Sri Muktsar Sahib on 16.2.2017 (Annexure P/7).

In view of the settled law, this Court is of the opinion that there is no scope for interference with the impugned orders. It is not disputed that vide order dated 9.8.2016 on account of plea of arrears of rent, the Rent Controller, Malout assessed the provisional from 16.9.2011 to 16.9.2016 and quantified the amount as noticed above. Instead of making any payment on the date fixed i.e. 1.9.2016, counsel for the petitioners-tenants never appeared before the Rent Controller, Malout. Resultantly, keeping in view the judgment of the Apex Court in **Rakesh Wadhawan & others Vs. M/s Jagdamba Industrial Corporation & others** 2002(1) RCR (Rent) 514 and judgment in **M/s Nihal Singh Motors & others Vs. Sharma Malhotra etc.** 2004(3) CCC 681 (P&H), the Rent Controller came to the conclusion that eviction had to follow and passed the eviction order. The Appellate Authority, Sri Muktsar Sahib also declined to interfere with the orders on the ground that the rent had to be tendered on the first date in view of the law laid down by the Apex Court.

The Apex Court in **Rakesh Wadhawan's case (supra)** has specifically held that in case the tender is not made on the date fixed, eviction has to follow. The said view was thereafter followed by in **Vinod Kumar Vs. Prem Lata** 2003(11) SCC 397.

That in **M/s Nihal Singh Motors's case (supra)**, it has been accordingly held that no further time could be given by the Rent Controller and on failure of the tenant to comply with the provisional order of assessment of rent nothing remained to be done and order of eviction was

to follow.

The Division Bench in **Rajan @ Raj Kumar Vs. Rakesh Kumar** 2010 (2) PLR 201 has held that once the tenant does not tender the rent there is nothing else to be done and eviction has to follow. Resultantly, the view taken in **Rajinder Lal Vs. Gopal Krishan** 2006 (2) PLR 124 taking a contrary view was overruled.

This Court in **Mrs. Birinder Khullar Vs. Maninder Singh** 2011 (3) PLR 38 has 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 **Gurvinder Singh Vs. Vinayak Bahal** 2011(3) PLR 740, the cheque tendered was dishonoured and this Court held that a deliberate attempt had been made by the tenant and law should not protect such a tenant and resultantly dismissed the petition with costs of ₹ 25,000/-.

In such circumstances, the impugned orders dated 9.8.2016 and 1.9.2016 passed by the Rent Controller, Malout and order dated 16.2.2017 passed by the Appellate Authority, Sri Muktsar Sahib do not suffer from any infirmity or illegality which warrant interference by this Court in exercise of revisional jurisdiction.

Accordingly, both the revision petitions are dismissed.

A photocopy of this order be placed on record of connected case file.

May 10, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No

Pardeep Kumar
2017.05.12 10:37
I attest to the accuracy and integrity
of this document
Punjab and Haryana High Court,
Chandigarh