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

Civil Misc. No.4866-CII of 2017 in/and
Civil Revision No.481 of 2017
Date of decision: 07.03.2017

Sarla Devi

...Petitioner

Versus

Tek Chand

...Respondents

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

Present: Mr. Ishan Gupta, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Civil Misc. No.4866-CII of 2017

Prayer made in the present Civil Misc. Application for placing on record the rent note dated 11.8.1989 (Annexure P/3) is allowed subject to just exceptions and for the purpose of deciding the present petition only.

Annexure P/3 is taken on record.

Office to tag the same at appropriate place in the file.

The Civil Misc. Application stands disposed of accordingly.

Civil Revision No.481 of 2017

The petitioner-landlord challenges the order dated 21.7.2016 passed by the Rent Controller, Sangrur whereby the provisional rent has been assessed at ₹ 1600/- per month interse the parties.

The Rent Controller, Sangrur vide order dated 21.7.2016 had directed that payment be made after it calculated the interest and the costs and thus a total amount of ₹ 43,200/- was held due for the period concerned.

The Landlord filed an appeal before the Appellate Authority, Sangrur submitting that there was an enhancement clause in the rent note and therefore, the assessment was wrongly made and enhancement clause should have been enforced by the Rent Controller concerned.

The Appellate Authority, Sangrur has rightly dismissed the appeal on 13.12.2016 by holding that the assessment is provisional and can not be final determination of the rights and therefore, the findings of the Rent Controller are not liable to be interfered with. The judgments relied upon were distinguished on the ground that they were earlier in point of time and therefore, the same could not be pressed into service.

The Apex Court in **Rakesh Wadhawan & others Vs. M/s Jagdamba Industrial Corporation & others** 2002(1) RCR (Rent) 514 has specifically held that provisional rent is to be fixed on the basis of material and evidence before the Court at that stage and order of provisional rent is purely interim. In case the landlord is entitled for more rent, the outstandings are to be paid at the time of final adjudication. In case if it is found that tenant had paid excess rent, the Rent Controller may direct the amount deposited in excess by the tenant to be refunded to him. In case the amount assessed was as per agreed rate, the petition is to be disposed of. Thus, only a tentative finding at that stage has to be recorded by the Rent Controller.

The view taken in **Rakesh Wadhawan's** case (supra) was thereafter approved by the three Judge Bench in **Vinod Kumar Vs. Prem Lata** 2003(11) SCC 397.

Needless to say that controversy whether enhancement clause

can be enforced is to be decided at the time of final adjudication of the case.

In such circumstances, the grouse against the interim order in the facts and circumstances of the case would not be justified.

Accordingly, the present revision petition is dismissed.

March 07, 2017
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(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No