

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 24.08.2017****CR No.5674 of 2017**

Dinesh Kumar Aggarwal

...Petitioner

Vs.

Rajesh Gupta

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. Robert Kanwar and Kanwar Ashwani Kumar, Advocates,
for the petitioner.**RAJIV NARAIN RAINA, J. (ORAL)**

At the very outset, it transpired that the impugned judgments dated 20.01.2017 and 28.05.2017 passed by the Rent Controller, Jalandhar and the Appellate Authority, Jalandhar respectively annexed with the instant petition are incomplete. Upon this, learned counsel for the petitioner handed over a complete set of both the judgments in Court, which is ordered to be taken on record.

The Rent Controller, Jalandhar assessed the provisional rent and fixed a date for payment of arrears in a petition for eviction filed by the respondent – landlord, inter alia, on the grounds of non-payment of rent. On the date fixed, the tenant did not deposit the arrears of rent as provisionally assessed and consequently, he has been non-suited and an order of eviction has been passed on 20.01.2017.

The petitioner-tenant preferred an appeal feeling aggrieved, which was dismissed by the Appellate Authority, Jalandhar on 25.05.2017. The explanation put forth for failure to deposit the arrears on the date fixed

is that the petitioner – tenant or his counsel had no prior knowledge or information about the passing of assessment orders on 03.12.2016 as well as directions of making the payment of assessed rent on 20.01.2017. The wrong date was noted by counsel which is a facile explanation any one can offer when squeezed.

Having heard learned counsel for the petitioner, I find no merit in the instant petition. A perusal of the order dated 25.05.2017 reveals that the Appellate Authority after considering the entire record minutely has rightly come to the conclusion that the tenant was very much aware about the proceedings going on before the Rent Controller on various dates, as counsel/proxy counsel appearing on his behalf remained present there. The Appellate Authority respectfully adopted the law laid down on the point by the Supreme Court in Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation, AIR 2002 SC 2004 that failure of tenant to comply with the order assessing provisional rent means an order of eviction, as a duty has been cast upon the tenant to tender the amount so assessed on the first date of hearing after the passing of such order.

The Appellate Authority also rightly came to the conclusion relying upon Gurvinder Singh Vs. Vinayak Bahal, 2011 930 PLR 740 that if the provisional rent is not paid by the date fixed by the Court, whatsoever may be the reason, the time cannot be extended and the tenant has to be evicted.

Consequently, I have no reason to interfere with the findings recorded by the Rent Controller and the Appellate Authority and would dismiss the petition.

The petitioner – tenant is directed to vacate the premises and handover the peaceful vacant possession to the landlord on or before 30.09.2017. In this regard, the petitioner – tenant would furnish an undertaking before the Rent Controller, Jalandhar by filing an affidavit that he would vacate the premises and handover the keys to the landlord on or before 30.09.2017. Such an affidavit be filed on or before 08.09.2017 failing which the landlord would have liberty to apply to this Court in this disposed of matter for appropriate orders including orders of police help for delivery of possession.

Needless to say, the tenant would pay the arrears of damages for use and occupation, if any outstanding, to the landlord on or before 08.09.2017 i.e. the date when tenant files his undertaking before the Rent Controller and the future balance before the last date.

24.08.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*