

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

CR No.6158 of 2017

Date of Decision: September 12, 2017

Shalimar Paints Limited

..... Petitioner

Versus

Tejinder Kaur

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Himanshu Raj, Advocate
for the petitioner.

DEEPAK SIBAL J. (ORAL)

The respondent filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking therein the ejectment of the petitioner on the ground that the respondent needed the tenanted premises for her own use. Accepting the respondent's petition, Rent Controller, Ludhiana through order dated 30.10.2015 ordered the petitioner's eviction which was challenged by the petitioner through an appeal filed before the Appellate Authority, Ludhiana. As there was delay in filing of the appeal, an application under Section 5 of the Limitation Act, 1963 was filed along with the appeal, seeking condonation of delay. Interim stay of the eviction order was also prayed for.

Learned counsel for the petitioner after drawing the attention of this Court to the interim orders passed by the Appellate Authority, Ludhiana submits that the appeal to challenge therein the petitioner's ejectment, along with the afore-referred applications, had been filed by the petitioner on 23.09.2016 which came up for hearing before the Appellate

Authority for the first time on 29.10.2016. However, even after the passage of about 11 months, what to talk of the appeal, even the application seeking condonation of delay had not been adjudicated upon. It is further submitted that in the meanwhile, in execution of the aforesaid eviction order, the Executing Court has passed orders for issuance of warrants of possession of the tenanted premises.

In view of the above, it was prayed that appropriate directions be issued to the Appellate Authority, Ludhiana to take, within a time bound manner, a final decision, at least on the application seeking condonation of delay as also on the application filed seeking stay of the eviction order in the afore-referred appeal pending before the Appellate Authority because if before such decision(s) the eviction order gets executed, it would render the petitioner's statutory remedy infructuous.

Finding reason in the submissions made by learned counsel for the petitioner, the present petition is disposed of with a request to the Appellate Authority, Ludhiana to finally adjudicate upon the application filed by the petitioner seeking condonation of delay in filing of the appeal against the order directing the petitioner's eviction. Such decision be taken on the next date fixed before the Appellate Authority which is stated to be 22.09.2017 or subject to the convenience of the Appellate Authority, within one week thereafter. If such decision is adverse to the rights of the petitioner, the matter would be laid to rest so far as the appeal is concerned. However, in the eventuality of the Appellate Authority coming to a conclusion that there are good grounds to condone the delay in the filing of the petitioner's appeal, the Appellate Authority is then further requested to take up the prayer for stay made by the petitioner in his

pending appeal and take a final decision thereupon within two weeks thereafter.

With a view not to render the statutory remedy, already availed of by the petitioner against his ejectment order as infructuous, it is directed that till the Appellate Authority, Ludhiana takes a decision on the application filed by the petitioner seeking condonation of delay, the petitioner shall not be dispossessed. In case the delay in filing of the appeal is condoned, the interim protection with regard to the stay on the petitioner's dispossession from the tenanted premises shall continue till the pronouncement of the order by the Appellate Authority on the application seeking stay of the operation of the ejectment order.

(DEEPAK SIBAL)
JUDGE

September 12, 2017

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No