

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 19.09.2017****CR No.6390 of 2017 (O&M)**

Harminder Singh

...Petitioner

Vs.

Harwinder Kaur & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sandeep K. Sharma, Advocate, for the petitioner.

RAJIV NARAIN RAINA, J. (ORAL)

Notice of motion.

Mr. Manish Singla, Advocate, who is present in Court, accepts notice on behalf of the respondents and waives service.

In view of the proposed order of remand, the matter is heard by consent for final disposal.

This petition has been filed against an order of the Rent Controller, Khamanon assessing provisional rent at the rate of ₹1000/- per month for the demised shop with a direction that the entire arrears be paid outstanding for the last 25 years. The arrears of rent at the rate of ₹1000/- for 305 months i.e. from January, 1992 till date works out to a sum of ₹3,05,000/- + ₹2,33,325/- interest at the rate of 6% + ₹1000/- costs, making a grand total of ₹5,39,325/-.

It was the stand of the landlord in the eviction petition brought for non-payment of rent that the petitioner tenant had not paid rent from January, 1992 till May, 2017 i.e. for 305 months.

Aggrieved by the order of the Rent Controller, Khamanon, the tenant carried an appeal to the Appellate Authority, Fatehgarh Sahib, who has dismissed the same. The averments in Para.7 of the grounds of appeal taken before the Appellate Authority was that earlier rent at the rate of ₹600/- per month was deposited up to 2001 in the account of the landlord Badan Singh maintained in the Punjab & Sind Bank, Khamanon. Thereafter, the position is not clear and remains subject to proof by evidence before and after 2001 to confirm transfers of money. It is argued by the learned counsel for the tenant that this aspect as contained in Para.7 of the grounds of appeal has been ignored by the Appellate Authority while passing the final order affirming the order of the Rent Controller.

The Appellate Authority cannot be blamed for this, as it was for the tenant to produce the Bank statements at proper stage to show that rent was paid for the period claimed. If there was laxity on the part of the tenant in not backing up the pleadings with proof and if such documentary proof exists on bank record, then to the mind of the Court the ends of justice may demand that the matter should be remitted for reconsidered by the Appellate Authority by giving an opportunity to the tenant to produce bank officials/bank statements and the photocopies of rent payment receipts through banking transactions which are in his possession, so that the same can be matched and compared with the transactions on the original bankers book in case they have not been weeded out.

Having heard learned counsel for the parties, this Court is of the considered view that justice may be served if the matter is remanded and the Appellate Court is requested to pass a fresh order as expeditiously as possible after taking into consideration the new material which may be

placed before it by both the parties upon remand and after hearing them take a call on the evidence.

Disposed of accordingly.

Parties to appear before the Appellate Authority, Fatehgarh Sahib on 09.10.2017.

19.09.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>