

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

CR No.7162 of 2014 (O&M)
Date of decision: 20.01.2017

T.R.Sachdeva & another

....Petitioners

Versus

Inderjit Singh

...Respondent

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

Present: Mr.Harsh Aggarwal, Advocate, for the petitioners.

Mr.Abhinav Gupta, Advocate, for the respondent.

G.S. SANDHAWALIA, J. (Oral)

Present revision petition is directed against the order dated 21.05.2014, whereby the application for passing of ejectment order from the 2 shops in question, of the petitioner-landlord, on the ground of non-tendering of the provisional rent, was dismissed.

The reasoning which prevailed with the Rent Controller, Jalandhar, while dismissing the application, was that in a subsequent eviction application filed by the petitioner-landlord, provisional assessment had been made vide order dated 08.11.2013 and the rent from 01.11.2009 to 31.03.2013 had been assessed. The payment had been made on 09.12.2013. Resultantly, it was held that the application was not maintainable and stood dismissed.

Counsel for the petitioners is at pains to submit that provisional assessment was made @ Rs.1050/- per month along with simple interest of 6% per annum on 04.01.2013 (Annexure P3). The same was to be tendered on 04.02.2013. It is submitted that on the said date, tender was not made since the Court was on leave and the matter had been taken up 2 days earlier, on 02.02.2013. It is submitted that thereafter, an application under Order 6 Rule 17 had been filed, which kept on pending. The application for passing of ejectment

order was then filed on 06.05.2013 (Annexure P5), which has now been dismissed.

A perusal of the order dated 04.01.2013, which is sought to be implemented would go on to show that the Rent Controller never properly assessed the amount and calculated the amount of rent which was to be paid along with interest and costs by quantifying the same. The order reads as under:

“Heard on the assessment of provisional rent. Petitioner has claimed rent @ Rs.3000/- per month submitting that respondent is in arrears of rent since 1.11.2009. In the written statement respondent has not admitted the rate of rent as Rs.3000/- but he has submitted that the rate of rent is Rs.1050/- per month. Both the parties have failed to place on record any document to support their averments. Therefore, in the interest of justice provisional rent is assessed @ Rs.1050/- per month to be paid from 1.11.2009 to till date, alongwith simple interest @ 6% per annum.

Now rent be tendered on 4.2.2013.”

It has been held by this Court in **Gurpreet Singh & another Vs. Brijinder Bhardwaj & another 2011 (3) PLR 212** that the amount of provisional rent should be assessed accurately and quantified along with the rate of interest. The observations read as under:

“12. At this stage, it would be worthwhile to notice as to whether is it not the duty of the Rent Controller to assess the exact amount of arrears of rent and also calculate the interest accrued thereon at the rate of 6% per annum as provided under Section 13 (2) (i) (proviso) of the Act. To my mind, the Rent Controller is obliged under the Act to assess the exact amount of arrears of rent, exact amount of interest accrued

thereon, cost of the petition and the exact total amount which is liable to be paid by the tenants as the provisional rent on the date fixed by the Court. Since consequence of non tendering the exact amount of provisional rent on the date fixed is very drastic, therefore, responsibility of the Rent Controller equally very high and if there is any mistake in the calculation of the amount, if it is not properly assessed by the Rent Controller, the tenant cannot be held liable on the principle that "Act of the Court should do no harm to the litigant". In this regard, decision of the Supreme Court in **Jang Singh's Case (Supra)** needs a reference. In the said case, a preemption decree was drawn and the decree holder was directed to deposit Rs.5951/- less Rs.1000/- already deposited by him by a certain date and on failure, the suit was to stand dismissed. The decree holder approached the Court before the date for making the deposit and the Court Clerk prepared a bank challan for Rs.4950/- instead of Rs.4951/- and the decree holder made the deposit by Rs.one less. After the deposit, the decree holder obtained possession and the judgment debtor applied for release of the amount lying with the Court. It was found that the deposit was short by Rs. one.

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17. Before parting, it is pertinent to mention that a lot of time and energy of the Courts are being wasted in such type of litigation which is generated because of simple mistake on the part of the Rent Controllers, who fail to discharge their duties of assessing the provisional rent in accordance with law.

18. Hence, a direction is also given to all the Rent Controllers in the States of Punjab, Haryana and Union Territory, Chandigarh, to assess the provisional rent by multiplying the rate of rent with the period for which it is due, calculate the exact amount of interest @ 6% and after assessing the cost, give an accurate amount to the tenant which he is supposed to tender on the date fixed by the Court so that this kind of

situation may not arise in future because this Court has experienced that Rent Controllers are neither calculating the amount of interest nor are giving the accurate amount.

19. The Registrar of this Court is directed to circulate this order to all the Rent Controllers in the States of Punjab, Haryana and Union Territory, Chandigarh, in accordance with law.”

It is not disputed that the petitioner-landlord has, thereafter, filed a second application and the subsequent assessment was made for an overlapping period. In such circumstances, once the assessment order, as such, was not in consonance with the directions issued by this Court, in the opinion of this Court, the landlord cannot be permitted to take benefit of the orders which were not in conformity with the law laid down by this Court. As noticed, it is not disputed that the rent has already been received by the landlord for the period concerned.

In such circumstances, the order passed does not suffer from any infirmity which would warrant interference under the revisional jurisdiction of this Court. Accordingly, the present revision petition is dismissed.

January 20th, 2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*