

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No. 813 of 2017 (O & M)

Date of decision:03.02.2017

Sachin Seth

....Petitioner(s)

Versus

Subhash Chander & another

...Respondent(s)

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

Present: Mr. Divanshu Jain, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present revision petition is to the eviction order passed on 12.10.2016 by the Rent Controller which was upheld by the appellate authority on 06.12.2016. The ejectment was ordered on the ground that vide order dated 8.9.2016, the Rent Controller had directed the petitioner to pay the rent which had been assessed at ₹71,257/- which were the arrears from July 2014 till August 2016 @ ₹2,900/- per month for 25 months. The amount was inclusive of the interests and the costs.

It is a matter of record that the said order was never challenged and on account of the non-compliance, on the next date, which was fixed, the Rent Controller passed the eviction order. The eviction order, in such circumstances, is justified in view of the observations of the Apex Court in ***Rakesh Wadhawan vs. M/s. Jagdamba Industrial Corporation, 2002 (3) SCR 468***, which view has been followed by the Division Bench of this Court in ***Rajan @ Raj Kumar vs. Rakesh Kumar, 2010 (2) PLR 201***. The

Division Bench has very categorically held that once the compliance is not done, eviction has to follow. Thereafter, the view was followed in ***Mrs. Birinder Khullar vs. Maninder Singh, 2011 (3) PLR 38*** and ***Chand Kumar Ahuja vs. Gurdarshan Singh Gill, 2012 (3) RCR (Civil) 530*** wherein, it was held that the Rent Controller has no power of extension.

An argument has been raised by Mr. Jain that fair rent was still to be assessed and therefore, the orders are not justified and the Rent Controller mixed up the issue of fair rent and provisional assessment and therefore, the orders are not justified which was also not appreciated by the appellate authority, and resultantly, the matter is being challenged. It is further submitted that there was no intention as such not to deposit the rent and reference is also made to the cheque dated 20.9.2016 (Annexure P-6).

A perusal of the eviction petition would go on to show that the claim of the respondent – landlord was that the rent due was ₹2,500/- as per rent note dated 12.7.2006. There was an enhancement sought which was at 2% per month after the expiry of the tenancy of 11 months and 28 days. Resultantly, rent was claimed at ₹2,900/- per month for that period from 12.7.2013 to 11.7.2014. Thereafter, application (Annexure P-12) for assessment of fair rent was filed by the petitioner on the ground that there were some adjustments to be made and a sum of ₹18,637/- was due against the petitioner. The application was contested on the ground that the same was premature and not tenable and the rent could not be assessed in the absence of any written statement. Thereafter, the Rent Controller has assessed the rent as noticed at ₹2,900/- per month amounting to ₹71,257/- alongwith necessary interest and costs. Even if the said argument is taken into consideration, it would have been the bounden duty, atleast of the

tenant to deposit the rent @ ₹2,500/- per month, if not ₹2,900/- per month, as claimed. It is also to be noticed that the order dated 08.09.2016 was never challenged at any stage. Once the eviction order has been passed, thereafter, the appeal was filed. In such circumstances, this Court is of the opinion that the orders of the Division Bench would come into play. The order dated 08.09.2016 was an order of provisional assessment on the basis of the rent claimed and in such circumstances, the orders directing ejectment are not liable to be interfered with. The cheque which has now been relied upon to show the bonafide is dated 20.12.2016 which was much after the date when the rent was supposed to have been tendered in Court i.e. 12.10.2016. Accordingly, the present revision petition stands dismissed.

03.02.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No