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

**Civil Misc. No.4214-CII of 2017 in/and
Civil Revision No.8655 of 2016
Date of decision: 08.03.2017**

Dr. Sanjeev Sood

...Petitioner

Versus

Ashok Kumar Bansal

...Respondent

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

Present: Mr. Vishal Sharma, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Civil Misc. No.4214-CII of 2017

Prayer made in the present Civil Misc. Application for placing on record copies of the pleadings is allowed subject to just exceptions.

The same are taken on record.

Office to tag the same at appropriate place in the file.

The Civil Misc. Application stands disposed of accordingly.

Civil Revision No.8655 of 2016

Challenge in the present petition is to the order dated 18.11.2016 (Annexure P/3) by the tenant whereby he has sought refund of the amount which had been tendered on account of being provisional rent assessed by the Rent Controller, Ludhiana, which prayer has been rightly rejected.

The reasoning which prevailed with the Rent Controller is that only after appreciation of evidence which is to be led by the parties in due

course any such adjustment can be made.

Counsel for the petitioner submits that there was a dispute as such regarding relationship of landlord and tenant and the amount was to be paid to one Kasturi Lal, attorney of the original owner.

A perusal of the paper book would go on to show that vide order dated 14.10.2015 (Annexure P/1) the arrears of rent from 1.4.2006 to 31.10.2015 at the rate of ₹ 1800/- per month were assessed. The interest and costs were added to it and total provisional rent to the tune of ₹ 2,68,030/- was payable. It is not disputed that the amount has been paid. However, an appeal was preferred against the said order before the Appellate Authority, Ludhiana which was dismissed on 12.5.2016 (Annexure P/2) on the ground that nothing have been brought on record that the tenant had paid the amount as alleged in the reply. It was further noticed that it is a matter of evidence which is to be led by both the parties in due course and the Rent Controller would order refund if excess amount was claimed and received at the time of final disposal of the ejectment application.

For the reasons best known to the tenant, subsequent application was filed which has now been dismissed vide impugned order dated 18.11.2016 (Annexure P/3). No exception can be taken to the order of assessment of provisional rent which was upheld by the Appellate Authority. The law has been settled beyond any doubt by the Apex Court in **Rakesh Wadhawan & others Vs. M/s Jagdamba Industrial Corporation & others** 2002(1) RCR (Rent) 514 wherein it has specifically held that order of provisional rent is purely **interim** and it will

depend upon the final adjudication.

The view taken in **Rakesh Wadhawan's** case (supra) was thereafter approved by the three Judge Bench in **Vinod Kumar Vs. Prem Lata 2003(11) SCC 397.**

In such circumstances, grievance of the tenant is totally misconceived and there is no merit in the present revision petition.

Accordingly, the same is dismissed.

March 08, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No