

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

**Civil Revision No.8555 of 2014 (O&M)
Decided on : 17.02.2017**

Varinder Singh

... Petitioner

Versus

Harbarjinder Singh

... Respondent

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

Present : Mr. R.K. Gautam, Advocate
for the petitioner.

Mr. Bhupinder Bagga, Advocate for
Mr. Mansur Ali, Advocate for the respondent.

G.S. Sandhawal, J. (Oral)

The present revision petition is directed against the order dated 31.01.2012 and 26.11.2014 passed by the Rent Controller under Section 15 (5) of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the Act').

It is not disputed *inter se* the parties that the proceedings before the Rent Controller are at an advanced stage, since the rent petition was filed on 20.04.2011.

The grouse of the petitioner is that a sum of ₹2,08,340/- was assessed as provisional rent wrongly, keeping in view the rent @ ₹6,000/- per month, whereas it should have been @ ₹1,500/- per month.

It is submitted that on account of the wrong assessment, the appeal had been filed before the Appellate Authority, Mohali and vide interim order dated 15.02.2012 (Annexure P-2), it was directed that 1/3rd amount of the said amount will be paid. However, the amount was not to be

disbursed to the landlord. The said order was complied with. The appeal, thereafter, was dismissed as not maintainable on 12.02.2014 (Annexure P-3), in view of the judgment of this Court in '**Trilok Singh Anand Vs. M/s Prem Chand & sons and others' 2012 (4) Civil Court Cases 87** on the ground that it was not under Section 4, 10, 12 and 13 of the Act.

It is the case of the petitioner-tenant that the said amount has been duly withdrawn by the respondent-landlord also, thereafter. The petitioner-tenant had also approached this Court in **Civil Revision No.2083 of 2014**. The said revision was disposed of on 24.07.2014 with liberty to approach the Rent Controller to take necessary pleas and the rent deposited was to be subject to final determination on the basis of evidence that come on record. The said order reads as under:-

“After arguing at length, learned counsel for the petitioner states that the order of the court below has been complied with and prays for permission to withdraw the instant petition with liberty to take the plea of payment of rent to the respondent-landlord before the learned Rent Controller. Obviously the rent deposited by the petitioner pursuant to the directions of the Rent Controller or the Appellate Authority is subject to final determination on the basis of evidence that comes on record.

Dismissed as withdrawn with the liberty aforesaid granted.”

Resultantly, an application was filed before the Rent Controller taking the plea that the earlier order dated 31.01.2012 should be modified or it should be kept in abeyance during the final adjudication of the dispute of rate of rent. The Rent Controller had taken the view that there is no irregularity or error in the order dated 31.01.2012 and the

same has not been set aside and the High Court had also not interfered as such and, therefore, the application was dismissed.

This Court in ***Civil Revision No.7629 of 2014 'Taninder Tandon Vs. Anjan Parkash Kaur, decided on 14.11.2014*** has held that an appeal would lie against an order of provisional assessment, keeping in view the Division Bench judgment of this Court in ***Trilok Singh Anand (supra)***.

Resultantly, keeping in view the above fact that this Court is of the opinion that the order of the Appellate Authority dated 12.02.2014 as such was apparently was not justified. However, without going into the merits of the case and the dispute, since earlier revision petition has already been disposed off, this Court is of the opinion that, since the matter is at an advanced stage, it would be not appropriate to pass any order of ejectment for the lack of compliance of the order dated 31.01.2012, at this stage.

Resultantly, the present revision petition is disposed of with direction to the Rent Controller to decide the main rent petition on merits within a period of 3 months from the receipt of the certified copy of this order. It will be open to the Rent Controller, thereafter, come to the conclusion that what was the rate of rent *inter se* the parties, on the basis of the evidence, which has come before it and, accordingly, keeping in view the judgment of the Apex Court in ***'Rakesh Wadhwan and others Vs. Jagdamba Industrial Corporation and others' 2002 (5) SCC 440,***

pass appropriate orders whether for making good the deficiency or for directing refund or for terminating the proceedings. In case, the tenant is found to have tendered less amount, he would be given an opportunity to tender the same within a reasonable period of time.

Resultantly, the orders which are challenged would not as such prejudice the Rent Controller at that stage.

With the abovesaid observations, the present revision petition is disposed of.

FEBRUARY 17, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No