

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 1288 of 2017(O&M)

Date of Decision:26.3.2018

Faqir Chand

---Petitioner

vs.

Dhanak Panchayat Mohalla Modi Mill, Sunam

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Raman Mohinder Sharma, Advocate
for the petitioner

Rekha Mittal, J.

CM No. 3814-CII of 2017

Prayer in this application is for condoning delay of 23 days in refiling the revision.

In view of averments made in the application and arguments advanced by counsel for the applicant, application is allowed and delay of 23 days in refiling the revision stands condoned.

Disposed of accordingly.

Civil Revision No. 1288 of 2017

The present petition directs challenge against consistent findings recorded by the courts whereby application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short "1949 Act") filed by the respondents for eviction of the petitioner from shop measuring 9' 6" x 16', detailed in head note of the application, was allowed by the Rent Controller, Sunam on account of failure of the petitioner to pay provisional rent assessed by the Rent Controller and the eviction order came to be affirmed by the appellate authority vide

judgment dated 14.9.2016.

The Rent Controller assessed provisional rent vide order dated 11.8.2011 whereby the petitioner/tenant was held liable to pay a sum of Rs.1,04,400/- towards rent for the period of 87 months @ Rs. 1200/- per month plus interest Rs. 22,968/- @ 6% per annum and costs Rs. 500/- i.e. total Rs. 1,27,868/- and the petitioner was allowed time to pay the provisional rent on 26.8.2011.

The sole submission made by counsel for the petitioner is that as the respondent/landlord was not entitled to recover arrears of rent for a period of more than three years i.e. 36 months, provisional rent assessed by the Rent Controller for a period of 87 months alongwith interest thereon is not legally tenable, therefore, eviction order passed by the Rent Controller on the ground of non-payment of provisional rent is liable to be set aside and consequently the order passed by the appellate authority would fail. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court **Kamala Bakshi vs. Khairati Lal AIR 2000 Supreme Court 1808**. Further reference has been made to the Division Bench judgment of this Court **Balwant Singh and others vs. Neki Ram 2003 Haryana Rent Reporter 794**.

I have heard counsel for the petitioner, perused the paper book particularly the orders impugned.

The judgment in **Kamala Bakshi's case (supra)** was passed by Hon'ble the Supreme Court in a case governed by the provisions of Delhi Rent Control Act (1958) particularly Section 14(1) and proviso (a) to Section 14(1) thereof. In **Balwant Singh and others' case (supra)**, the provisions of Section 13(2)(i) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (in short "1973 Act") were the subject matter of discussion and decision by the Division Bench of this Court.

Counsel for the petitioner was asked to refer to the relevant

provisions of the 1949 Act applicable in the present case and to draw similarity between the provisions of Section 13 of the 1949 Act viz-a-viz the provisions of Delhi Rent Control Act (1958) and 1973 Act. After going through provisions of Section 13 of the 1949 Act, relevant in the present context, counsel has fairly conceded that there is no such provision in Section 13 of the 1949 Act limiting right of the landlord to recover arrears of rent only for three years either from the date of demand notice or from the date of initiation of eviction proceedings. He is apologetic for referring to the judgments of Hon'ble the Supreme Court and this Court without appreciating that provisions of the 1949 Act are not similar to the provisions of rent acts involved in the referred authorities. In this view of the matter, petitioner cannot derive any advantage to his contention from the cited judgments to find fault in the order assessing provisional rent passed by the Rent Controller. As the petitioner failed to pay the provisional rent assessed by the Rent Controller, the order of eviction is the natural consequence to follow, as has been held by Hon'ble the Supreme Court in **Rakesh Wadhawan and others vs. Jagdamba Industrial Corporation and others 2002 Haryana Rent Reporter 367 (SC)**.

No other point has been raised.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine. No order as to costs.

(Rekha Mittal)
Judge

26.3.2018

paramjit

Whether speaking/reasoned: Yes

Whether reportable : Yes/No