

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

***Civil Revision No.1986 of 2018 (O&M)***

Date of Decision: March 26, 2018

Gamdur Singh

...Petitioner

Versus

Sitar Khan

...Respondents

**CORAM:- HON'BLE MR.JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Rajnikant Upadhyay, Advocate for the petitioner.

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**HARINDER SINGH SIDHU, J.**

The landlord has filed this revision petition impugning the orders dated 14.02.2018 (Annexure P-3) and 15.2.2018 (Annexure P-6) of the Ld. Rent Controller.

The petitioner-landlord had filed an eviction petition against the respondent-tenant seeking his eviction on the ground of non-payment of rent as well as on the ground of personal necessity.

As there was dispute about the rent payable the Ld. Rent Controller vide his order dated 15.01.2018 assessed the arrears of rent payable by the respondent-tenant to be Rs. 19,018/-. The case was adjourned to 14.02.2018 for payment of rent.

It is the case of the petitioner-landlord that on 14.02.2018, the date fixed for payment of the rent, the Counsel for the petitioner waited till 3.30 PM but the respondent intentionally did not turn up to make the payment. At about 4.20 PM the respondent's counsel moved an application stating that the respondent had come in the morning at about 11.00 a.m. with the rent but the petitioner or his counsel was not present. Thereafter, after 3.00 PM also the

petitioner or his counsel was not available to receive the rent, hence the tenant be allowed to deposit the rent on any other date. On this application the impugned order dated 14.02.2018 was passed adjourning the case to 15.02.2018 for making the payment and the parties were directed to appear before the Court at 10.00 AM sharp.

On 15.02.2018 the petitioner- landlord filed an application for ordering eviction of the tenant for his failure to deposit the rent on the first date after assessment of rent. This application has been dismissed vide order dated 15.02.2018 (Annexure P-6) which has also been impugned in this revision petition.

Ld. Counsel for the petitioner argued that as the tenant had not paid the rent on 14.02.2018, the first date after the assessment of rent by the Rent Controller, the eviction order had to follow. The Ld .Rent Controller had erred in adjourning the case to 15.02.2018 and giving another opportunity to the tenant to deposit the rent and dismissing the application of the petitioner for ordering eviction of the tenant .

The order dated 14.02.2018 is reproduced below:

*“Present: Sh.Ashok Assuri, counsel for the petitioner  
Sh.Rajesh Kujmar, counsel for the respondent (defence  
struck off)*

*Today the case was fixed for making payment of rent.  
Respondent appeared at 3.30 pm to make payment by the time  
petitioner left the court and respondent is ready to make payment.  
Court waited for petitioner till 4.15 p.m. and at 4.30 pm counsel for  
the respondent moved an application for deposit of rent access by  
this court vide order dated 15.01.2018 of Rs.19,018/-. Since,  
respondent is ready to make payment before court time is over.  
Therefore, in the interest of justice, case is adjourned to 15.02.2018  
for making payment and both the parties are directed to appear*

*before the court at 10.00 am sharp.”*

From this it is clear that the tenant appeared in Court at 3.30 PM to make payment of the rent but by then the petitioner- landlord had left the Court. The tenant stated that he was ready to make payment. The Court waited till 4.15 PM for the landlord or his counsel to appear and accept the rent. It was thereafter, that on an application moved by the Counsel for the tenant and recording that the tenant was ready and willing to deposit the rent that the case was adjourned to 15.02.2018, the very next date for making the payment. The parties were directed to appear at 10.00 AM sharp. On 15.02.2018 the tenant appeared at 11.30 AM and stated that he is ready to make payment but the petitioner was not available for receiving the payment. The Ld. Court dismissed the application of the landlord by noting that the landlord by remaining absent and not receiving the rent was trying to take the benefit of his own wrong.

From the above narration it is clear that the tenant on the very first day i.e., 14.02.2018 and the next day as well i.e., 15.02.2018 was ready to deposit the assessed rent. It was the landlord who was not available to accept the rent. Thus there was no default on the part of the tenant.

In these circumstances no fault can be found with the impugned orders.

This revision petition is dismissed.

March 26, 2018

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( HARINDER SINGH SIDHU )  
JUDGE

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|-----------------------------|----------|
| Whether Speaking / Reasoned | Yes      |
| Whether Reportable          | Yes / No |