

CR-2484 of 2018(O&M)

Date of Decision: 2.5.2018

Sudhir Talwar and another

---Petitioners

versus

Raghubir Dass and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr.Divanshu Jain, Advocate
for the petitioners**

Rekha Mittal, J.

The present petition directs challenge against concurrent findings recorded by the Courts whereby application for eviction from ground floor portion of SCO No. 36, Sector 17-C, Chandigarh filed under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short “the Act”) has been allowed by the Rent Controller and order of eviction came to be affirmed by the appellate authority.

Counsel for the petitioners made submissions at length on the application for eviction being barred by principle of res judicata and failure of the courts to decide that question despite an issue in this regard having been framed by the Rent Controller. In support of his contention, he has referred to the Division Bench Judgment of this Court **Mehtab Singh Advocate vs. Shri Tilak Raj Arora and another 1988(1) RCR (Rent) 159**. Later, when the court did not appear to be agreeable to the submissions made, he has submitted that he does not press the petition on merits but the petitioners may be given sometime to vacate the premises in

question.

In view of the above, eviction order passed by the Rent Controller and affirmed by the appellate authority is confirmed. Perusal of the records would reveal that petitioners are in occupation of the premises in question since the year 1972 and the same is a business premises. In order to enable the petitioners to make alternative arrangements for shifting their business from the demised premises, the petitioners are allowed time upto 15.1.2019 to hand over vacant possession of the tenancy premises to the respondent-landlord, subject, however, to the following conditions:-

1. The petitioners shall clear arrears of rent to date within a period of one month by way of deposit with the Rent Controller, Chandigarh.
2. Rent for the subsequent months till vacation shall be deposited by 7th of each calendar month with the Rent Controller, Chandigarh.
3. The petitioners shall furnish an undertaking within a period of 15 days, before the Rent Controller, Chandigarh that they will hand over vacant possession of the demised premises to the respondent-landlord on or before 15.1.2019.

Failure of the petitioners to comply with either of the aforesaid conditions would entitle the respondent to execute the eviction order forthwith.

For the next 15 days, warrants of possession, if already issued by the Rent Controller, shall not be executed in order to enable the

petitioners to furnish an undertaking before the Rent Controller.

Disposed of accordingly.

(Rekha Mittal)
Judge

2.5.2018

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/Nodx