

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

208

CR-3023-2014 (O&M)
Date of decision: 16.07.2018

SUKHWINDER KAUR AND ORS

...Petitioners

Versus

GIAN SINGH

...Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Balbir S. Jaswal, Advocate for the petitioners.

Mr. V.K. Sandhir, Advocate for the respondent.

REKHA MITTAL, J. (Oral)

The present petition directs challenge against orders dated 17.01.2012 passed by the Rent Controller, Amritsar and dated 28.01.2014 by the Appellate Authority, Amritsar.

Counsel for the petitioners would urge that the petitioners filed an application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of the respondent/tenant on various grounds including non-payment of rent w.e.f 01.10.1990 onwards in an application filed on 04.08.1992. The Rent Controller, Amritsar passed order of ejectment dated 08.12.1995 on the ground of non-payment of complete arrears of rent because of tender being deficit to the extent of Rs.100/-. The order passed by the Rent Controller dated 08.12.1995 came to be affirmed by the Appellate Authority vide order dated 11.12.1996. The aforesaid orders became subject matter of challenge in CR No.594 of 1997 at the behest of respondent Gian Singh. This Court allowed the revision petition, set aside the orders dated 08.12.1995 and 11.12.1996 and the case was remanded with a direction to the successor Court of Smt. Archana Puri, the then Rent Controller, Amritsar to decide the same afresh after passing a conditional order, in accordance with principle of law laid down in **Rakesh Wadhawan and others Vs. M/s Jagdamba Industrial Corporation and**

others, 2002(5) SCC 440 and Vinod Kumar Vs. Prem Lata, 2003(2) RCR 329.

Counsel for the petitioners would urge that after remand of the case, the Rent Controller dismissed the eviction application by holding that the tenant was directed to tender the amount of rent which was short or deficient and deficiency has been made out.

Counsel for the parties are *ad idem* that the petition may be disposed of and the matter may be remitted to the Rent Controller for decision of the eviction application afresh after making provisional assessment of rent and an opportunity to the tenant to tender the rent in pursuance of the order of provisional assessment subject, however, to right of the tenant to seek adjustment of amount already tendered in the eviction proceedings including deposit of Rs.100/- after the case was remitted to the Rent Controller by this Court.

In view of the above, the petition stands disposed of. The matter is remitted to the Rent Controller for adjudication afresh from the stage of making provisional assessment of rent in view of judgment of Hon'ble the Supreme Court **Rakesh Wadhawan's case (supra)**. However, the tenant shall be entitled to seek adjustment of rent deposited before the Rent Controller at the initial stage of tender as well as deposit of Rs.100/- later in point of time subsequent to remand of the case. It is clarified that the matter is remitted to the Rent Controller for decision of the application for eviction afresh only on the ground of non-payment of arrears of rent. The parties through their counsel are directed to appear before the Rent Controller, Amritsar on 16.08.2018. As the petition pending since 1992 has been restored on the board of Rent Controller, the Rent Controller shall dispose of the petition within six months from the parties putting in appearance.

**(REKHA MITTAL)
JUDGE**

16.07.2018
ashok

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No