

In the High Court of Punjab and Haryana at Chandigarh

CR No.3493 of 2018 (O&M)
Date of Decision:- 25.05.2018

M/s Bombay Confectioners through its proprietorPetitioner

Versus

Harmohinder Singh and anotherRespondents

CORAM: **HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present : Mr. Som Nath Saini, Advocate, for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

By way of filing this revision petition, the petitioner-tenant assails order dated 11.5.2018 (Annexure P-10) passed by the learned Rent Controller, Chandigarh whereby the learned Rent Controller has dismissed his application for assessment of provisional rent.

Learned counsel for the petitioner has submitted that in terms of provision of Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as, 'the Act'), which has been interpreted by Hon'ble Supreme Court in Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation 2002 AIR (SCW) 2044, the learned Rent Controller was under an obligation to assess the provisional rent and that the Rent Controller not having done so, the tenant stands seriously prejudiced.

I have heard learned counsel for the petitioner and have also perused the impugned order as well as the other documents annexed with his revision petition. In the present case, respondent-landlord had filed an ejectment application under Section 13 of the Act in the year 2015 on grounds

of non-payment of rent. A perusal of order dated 28.9.2017 (Annexure P-6) reveals that the respondent-landlord had concluded his evidence on 29.4.2016 when the matter was adjourned for recording evidence of the petitioner-tenant. The evidence of the petitioner-tenant was closed by order on 28.9.2017 after a large number of opportunities had been afforded to the petitioner-tenant. It was thereafter on 23.10.2017 (Annexure P-7) that an application filed by the petitioner-tenant for assessment of provisional rent was moved which has been declined vide impugned order dated 18.5.2018. A perusal of the written statement (Annexure P-2) to the ejectment application shows that the petitioner has categorically denied the relationship of landlord and tenant amongst the parties. While in preliminary objection No.1, he has stated that the petition is liable to be dismissed on the ground that respondent-landlord is not the owner of the premises in question as the premises stood resumed vide order dated 7.5.1990 passed by Estate Officer, Chandigarh, in the reply on merits, it has categorically been stated that all the co-owners have separately sold their shares to Raj Kumar and Prithi Chand and he has been paying rent to the said persons after they purchased the same.

It will not be out of place here to mention that the learned Rent Controller while dismissing the application noticed that similar applications had already been considered and declined on 23.12.2015 and also on 2.3.2017 and that order dated 2.3.2017 has also been affirmed by Co-ordinate Bench of this Court.

The learned counsel has however submitted that in fact the application dismissed on 2.3.2017 was for recasting of issues. I find that the tenant by filing one application after another is trying to wriggle out of his stand of denial of relationship of tenant and landlord and to delay the

conclusion of proceedings. In this regard, observations of Hon'ble Supreme Court in Hameed Kunju Vs. Nazim 2017(2) RCR(Rent) 150 need to be borne in mind which read as follows:

“47. Before parting, we consider it apposite to observe that the object of the Rent Laws all over the State is to ensure speedy disposal of eviction cases between the landlord and tenant and especially those cases where the landlord seek eviction for his bona fide need.”

The learned counsel has also referred to judgment dated 5.7.2014 passed by learned Additional District Judge, Chandigarh wherein a suit for specific performance in respect of suit property had been decreed in favour of Raj Kumar and Pirthi Chand, and has contended that denial of relationship of tenant and landlord was not unjustified.

I have considered the aforesaid submission. It is for the landlord to take a definite stand regarding relationship. He can't be permitted to sail in two boats or to shift his stand time and again. The judgment dated 5.7.2014 referred to by learned counsel had come in existence before filing of this ejectment application. The petitioner, having once denied the relationship of tenant and landlord, has not been permitted earlier to withdraw the same though he has been trying to do so by one way or the other by filing different applications. In any case, the present application for assessment of rent had been filed at a highly belated stage i.e. after the evidence of parties in affirmative stood concluded.

The judgment in Rakesh Wadhawan's case (Supra) also would not come to the aid of petitioner in this case as the ratio of the same is not to the effect that even in case of denial of relationship of tenant and landlord by the

tenant, the Court is obliged to assess provisional rent.

In view of the above stated position, I do not find any infirmity in impugned order dated 11.5.2018 especially upon finding that his assertion regarding relationship of being a tenant which had previously been denied by him while filing written statement has not been permitted to be withdrawn subsequently.

Finding no merit in the present revision petition, the same is hereby dismissed.

May 25, 2018
mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No