

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

**Civil Revision No.4384 of 2016 (O&M)  
Date of decision: 15.01.2018**

**Sunder Singh**

**.....Petitioner**

**Versus**

**Vinod Kumar**

**.....Respondent**

**CORAM:HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Ravindra Jain, Advocate,  
for the petitioner.

**Ritu Bahri, J.**

Sunder Singh-petitioner (landlord) has filed this petition against the order/judgment(s) dated 28.09.2015 and 18.01.2016 passed by the Rent Controller, Jagadhri and the Appellate Authority, Yamuna Nagar at Jagadhri, whereby his petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, has been dismissed.

Petitioner-landlord had filed the aforesaid rent petition on the ground of non payment of arrears of rent w.e.f. 10.04.2013 to 09.03.2014 for 11 months at the rate of Rs.621/- per month plus house tax at the rate of 12.5% per annum, which came to Rs.6831/- plus house tax Rs.853.87, total amounting to Rs.7684.87/-. As per petitioner, respondent was further liable to pay increased rent of the shop at R.41/- per month plus house tax at the rate of Rs. 12.50% per annum from the date of application i.e. 10.09.2011 to 10.04.2013 i.e. for 19 months, which came to Rs.779/- plus house tax of Rs.97.87/-, total amounting to Rs.8581.74/-.

Upon notice, tenant-respondent appeared and filed reply taking

preliminary objection with regard to maintainability of the petition. On merits, it was admitted that respondent was tenant under the petitioner at the rate of Rs.621/- per month. All other allegations levelled by the petitioner-landlord were denied and prayer for dismissal of the petition was made.

From the pleadings of the parties, following issues were framed by the Rent Controller:-

1. Whether the respondent is liable to be ejected from the premises in question on the ground mentioned in the petition?  
OPA
2. Whether the present petition is legally not maintainable? OPR
3. Whether the petitioner is estopped from filing the petition by his own act and conduct? OPR
4. Relief.

In order to prove his case, petitioner-landlord had examined his General Power of Attorney Sh. Inderjit Singh as AW-1, who had tendered his affidavit as Ex.AW1A and reiterated the version mentioned in the rent petition.

In this case, the provisional rent was assessed by the Rent Controller on 15.05.2014 and thereafter, the petition was fixed for 19.05.2014 for depositing the rent. On the said date, Vinod Kumar-respondent (tenant) had appeared in the Court along with rent, but the petitioner (landlord) did not come present, therefore, the rent petition was dismissed in default. Thereafter, he made an application for restoration of the petition, which was allowed on 12.09.2014. On this date, respondent-tenant got recorded his statement to the effect that as per the assessment order, he had come in the Court to tender the rent on 19.05.2014, but for the

non appearance of petitioner, the rent petition was dismissed in default. After restoration of the application, he had brought the said assessed amount for payment. However, vide separate statement, petitioner-landlord refused to accept the assessed rent being time barred. Thereafter, respondent-tenant got his statement recorded that after restoration of the case, still some time was available for tendering the rent. In view of the said fact, respondent-tenant was allowed to deposit the assessed rent in the treasury and was asked to place on record receipt thereof on 04.10.2014. While appearing as DW-1, Vinod Kumar-tenant had categorically deposed that on 12.09.2014, he had visited the bank for depositing the rent, but computer server was down, so he could not deposit the payment. He had requested a date for depositing the same. After getting permission from the Court, he had gone to tender the assessed rent. The explanation given by the tenant was accepted and it was held that respondent-tenant was ready and willing to make payment of assessed rent. The above said facts were admitted by AW-1 during his cross-examination. The Rent Controller observed that respondent had duly deposited the assessed rent on the date fixed in the changed circumstances and he had placed on record treasury challan dated 15.09.2014 Ex.R1 to show the due payment of Rs.9522/-. Since the order of the Rent Controller had been complied with by the tenant, the rent petition filed by the landlord was dismissed. On appeal, the Appellate Authority has affirmed the order passed by the Rent Controller and observed that on 19.05.2014 i.e. the date fixed for deposit of the rent, the landlord (petitioner) did not appear and his petition was dismissed in default. The landlord cannot blame the tenant for not tendering the rent on the date fixed i.e. 19.05.2014. Thereafter, when the petition was restored on 12.09.2014,

the landlord himself had refused to accept tendered rent being time barred. This amount could not be deposited in the treasury as the computer server was down on that date. Thereafter, on time given by the Court, the rent was deposited vide receipt Ex.R1.

A perusal of the impugned order/judgment(s) shows that infact, it was the landlord-petitioner, who himself had refused to accept the rent and there was no delay on the part of the tenant to deposit the same. Hence, it was not a case where eviction of the tenant could be ordered on the ground of non payment of arrears of rent. Both the Courts below have rightly dismissed the eviction petition filed by the landlord. No illegality, much less, perversity has been found in the impugned order/judgment(s) warranting interference by this Court.

Resultantly, finding no merits, present petition is dismissed.

15.01.2018  
ajp

(RITU BAHRI)  
JUDGE

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