

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.3973 of 2018 (O&M)
Date of Order:05.07.2018

Rakesh Ahlawat

..Petitioner

Versus

Santosh Kumari

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pankaj Bali, Advocate,
for the petitioner.

Mr. Baldev Singh Badhran, Advocate
for the caveator-respondent.

ANIL KSHETARPAL, J(Oral)

Tenant-petitioner is in the revision petition against the order passed by learned Rent Controller and affirmed by the appellate authority in the appeal.

Tenant-petitioner has not even tendered the rent assessed provisionally for payment to the landlord. Learned appellate authority has noticed the conduct of the petitioner in the following words:-

“The petition was filed on 11.09.2015 and the respondent-tenant was served on 28.10.2015. He filed reply to the petition admitting the tenancy on 16.12.2015 and the matter was adjourned at least for four dates for provisional assessment of the arrears of rent. On 28.03.2016, when the case was fixed for arguments on

the assessment of the provisional rent, the tenant disappeared from the proceedings and was proceeded ex-parte. Ex-parte evidence of the petitioner was recorded on 11.04.2016 and the matter was fixed for 27.04.2016 for arguments, when tenant moved an application for setting aside ex-parte proceedings, which was allowed on 01.12.2016. Matter was then adjourned to 07.01.2017 for consideration on the assessment of the provisional rent and the matter was adjourned for at least three dates. On 23.02.2017, the tenant again disappeared from the proceedings and was proceeded ex-parte. His application moved on 10.04.2017 for setting aside the ex-parte proceedings was allowed on 24.04.2017. Ultimately, the provisional rent was assessed on 09.09.2017. Instead of making payment of the provisional assessed rent on the adjourned date, the tenant moved an application for extension of time, which was declined. Tenant failed to pay the provisionally assessed rent, compelling Ld. Rent Controller to pass the impugned order on 25.09.2017.

There is nothing on record to suggest that the order dated 09.09.2017 assessing the provisional rent was ever challenged.”

It may be noted that after the order of eviction was passed, even the first appeal was filed after a delay of three months approximately. Still, the first appellate court examined the case on merits and after relying upon a

Division Bench judgment of this court, which in turn relies upon the judgment passed by the Hon'ble Supreme Court, dismissed the appeal.

Although, learned counsel for the tenant-petitioner made sincere attempt, however, keeping in view the conduct of the petitioner which has been very aptly noticed by the first appellate court and accepted by this court, this court is of the considered opinion that the petitioner does not deserve any indulgence. Still further once the petitioner has failed to tender the provisional rent assessed, the order of eviction has to be passed.

In view thereof, there is no scope for interference.

The revision petition is dismissed.

July 05, 2018
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(ANIL KSHETARPAL)
JUDGE

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