

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

**Civil Revision No. 514 of 2015 (O&M)
Date of Decision: March 22, 2018.**

Kuldeep Kumar

.....APPELLANT(s).

VERSUS

Subhash Chander

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sandeep Bansal, Advocate
for the revision petitioner.

SURINDER GUPTA, J.

Heard.

Learned counsel for the revision petitioner submits that the Rent Controller while disposing of the petition filed by the respondent-landlord seeking ejectment of revision petitioner from the demised premises on the ground of non-payment of rent from July, 2005 to January, 2008, had passed a conditional order giving directions to revision petitioner to pay the arrears of the difference of rent since July, 2005 till 2008 @ ₹500 per month within a period of one month from the date of receipt of the certified copy of the order. The revision petitioner filed appeal against the order of learned Rent Controller and vide order dated 07.11.2013 passed by the Appellate Authority, he was allowed time for payment of the entire difference of rent and rent paid within 10 days.

In pursuance of the order passed by learned Rent Controller and the Appellate Authority arrears of rent amounting to ₹13,175/- was deposited by the revision petitioner. No appeal against the order of learned

Rent Controller was filed by the respondent/landlord. Learned Appellate Authority while upholding the order passed by the learned Rent Controller regarding rate of rent, dismissed the revision petition but at the same time directed the appellant/tenant to hand over the vacant possession of the shop in dispute to the respondent/landlord within a period of three months. The order passed by the learned Rent Controller was a conditional order and revision petitioner/tenant had challenged the finding of the rent Controller regarding the rate of rent. In these circumstances, there was no reason for the Appellate Authority to issue directions to hand over the vacant possession of the demised premises within three months.

I have perused the paper book with the assistance of learned counsel for the revision petitioner and find merits in his submissions.

Learned Rent Controller while disposing of the ejectment petition filed by the respondent/landlord has directed the revision petitioner/tenant to pay the difference of rent tendered by him after filing of ejectment petition and as assessed by learned Rent Controller at the time of final disposal of petition and these directions are containing in para 17 of his order, which reads as follows:

In view of my findings recorded on aforementioned issues, the petition of the petitioner is accepted with costs. The respondent is directed to pay the arrear of the variance rent since July, 2005 till January, 2008 @ ₹ 500/- per month as discussed above while recording the findings on issue No. 1 to the petitioner within one month from the date of receipt of the certified copy of the order, failing which the respondent is directed to hand over the vacant possession of the demised

premises to the petitioner within three months of the passing of the said order. The counsel's fee is assessed as ₹1000/-. The un-disbursed amount, if any, be disbursed to the quarter concern. The un-exhibited documents be returned to the party concerned against proper receipt and verification after expiry of the period of appeal, revision, if any.

As per report of the learned Rent Controller, the tenant/revision petitioner had deposited the arrears of rent amounting to ₹13,175/- on 16.11.2013 i.e within a stipulated period allowed to him vide order dated 07.11.2013, passed by the Appellate Authority. There was no other ground putforth by the respondent/landlord seeking ejectment of petition except the arrears of rent and once the rent has been paid, there was no reason for the Appellate Authority to pass directions to the revision petitioner/tenant to hand over the vacant possession of the demised premises to the landlord/respondent within a period of three months.

As a sequel of my discussion above, this revision petition is accepted and order passed by the Appellate Authority is modified to the extent that the directions issued for ejectment of the revision petitioner/tenant from the demised premises are set aside.

(SURINDER GUPTA)
JUDGE

March 22, 2018.
Jyoti-II

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No