

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

**CR No.5980 of 2018 (O&M)
Date of Decision: 18.12.2018**

Surinder Sharma

..... Petitioner

Versus

Lucky Sonker

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Hariom Sharma, Advocate
for the petitioner.

SUDIP AHLUWALIA J. (ORAL)

Ms. Bhupinder Kaur, Advocate puts in appearance and filed *vakalatnama* on behalf of the respondent today in the Court; Be kept on record.

This revision is directed against the order dated 01.08.2018 passed by the Ld. Appellate Authority, Panchkula vide which the application of the petitioner, who is a tenant under the respondent, for some extra time to deposit the rental arrears and rent as directed by the Ld. Appellate Authority in terms of the previous order dated 16.07.2018 (Annexure P-5) was rejected.

The petitioner's contention is that he was not feeling well at the relevant time and had been advised complete bed rest, and prior to that had also been unable to make payments in compliance of the relevant order since his mother had been hospitalized. However, no dates pertaining to the petitioner's own illness or his mother's hospitalization are forthcoming.

The Ld. Appellate Authority effectively rejected the petitioner's prayer by observing that he had failed to comply with the directions in the earlier order dated 16.07.2018 in which stay of the execution proceedings was granted subject to making of the requisite payments within the time specified.

Nevertheless, the Ld. Appellate Authority still permitted the petitioner to deposit the arrears/rent by observing elsewhere in the impugned order, *“However, the appellants if so, may desire tender the rent meanwhile”*.

Perusal of the initial order of the Ld. Appellate Authority passed on 02.07.2018 (Annexure P-4) reveals that there are certain points to be argued according to the authority. The observation reads as under:

“arguable points are involved in the appeal, hence admitted for hearing subject to limitation”.

In this view of the matter, in the opinion of this Court, the delay of a few days on the part of the petitioner in making the relevant payments in compliance of order dated 16.07.2018 can be condoned as one time measure only, since in any case the appeal has to be decided on merits as already noted by the Ld. Appellate Authority, and a separate application for payment of mesne profits filed on behalf of the respondent-landlord is yet to be decided by the Ld. Appellate Authority.

For the aforesaid reasons, the present petition is allowed with liberty to the petitioner to deposit all the outstanding arrears and the current rent till the month of January, 2019 latest by the 10th of January in the Appellate Court, failing which, the logical consequences would follow. If the petitioner complies with this order within time frame so

permitted, in that case, the execution proceedings against him shall remain stayed.

The Ld. Appellate Court is further directed to decide the pending application for fixation and payment of mesne profits as expeditiously as possible and preferably within one month from the date of communication of this order.

December 18,2018

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**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No