

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

C.R No. 893 of 2013 (O&M)
Date of decision : February 26, 2018

Sangat Singh and another

..... Petitioners

v.

Balraj Aggarwal & another

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. GS Sawhney, Advocate
for the petitioner.

Mr. Aman Bahri, Advocate
for the respondents.

Ajay Tewari, J (Oral)

This revision has been filed against the order of the Appellate Authority reversing that of the Rent Controller and thereby allowing the eviction petition on the solitary ground of non payment of provisional rent. As per the original claim petition, the respondent-landlord had claimed rent with effect from 1.4.2002 onwards @ ₹6200/- per month, while as per the case of the petitioner, rate of rent was only ₹ 3,000/- per month which stood paid uptill 31.8.2005. By an order dated 5.5.2007, the Rent Controller provisionally assessed the rent at ₹ 3,000/- per month (as stated by the petitioner) for the period 1.4.2002 to 31.5.2007. The date of payment was fixed as 1.6.2007. On that date, the petitioner appeared and moved an application for granting more time. Notice was issued for the next date i.e 2.6.2007. On the said date, the petitioner made a statement that he would

deposit the rent due on the next date which was fixed as 6.6.2007. On that date, the petitioner deposited the provisional rent which was accepted by the respondents under protest on the ground that the same had not been deposited on the due date as laid down by the Supreme Court in Rakesh Wadhawan vs M/S Jagdamba Industrial Corporation, 2002 (1) RCR (Rent) 514.

Counsel for the petitioner has argued that ultimately the Court came to the conclusion that the entire stand of the petitioner was correct and the rate of rent was ₹ 3,000/- per month and the petitioner had paid it till 31.8.2005. As per him, the fixation of provisional rent was admittedly wrong, yet the petitioner had deposited the same and there was delay of only five days.

On the other hand, counsel for the respondent has argued that the decision in Rakesh Wadhawan's case (supra) deals with all these situations and it is after considering all these factors that the Supreme Court had laid down that the tenant would have to deposit the amount of provisional rent and in case it is ultimately found that the amount deposited is more than the due amount, he would be given the benefit for it, and if ultimately it is found that the amount due is more than the provisional rent, one more opportunity would be granted to the tenant to deposit the same. Even as per the petitioner, there was some due amount but that amount was also not deposited on the due date and, therefore, the Appellate Authority rightly held that once the petitioner did not make the deposit on the date fixed i.e 1.6.2007, it was incumbent upon the Rent Controller to have passed an order of eviction then and there.

I find myself in agreement with the argument of counsel for the

respondents. The fact that the respondents claimed higher rent and for a longer period would not entitle the petitioner to refrain from making the deposit of provisional rent on the date fixed. Not having done so, the petitioner cannot claim that he cannot be ejected. Consequently, finding no merit, this petition is dismissed. However, in view of all the facts and circumstances of the case, I grant the petitioner time upto 31.1.2019 to vacate the demised premises. This would be subject to the petitioner depositing the entire rent upto 31.1.2019 @ ₹ 12,000/- per month (as assessed by this Court) on or before 31.5.2018.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

February 26, 2018
'kk'

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No