

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106

CR No.7810 of 2018 (O&M)
Date of Decision : 17.11.2018

Khushal Chand Bhalla

..... Petitioner

Versus

Vidya Sagar

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Shiv Kumar, Advocate
for the petitioner.

AJAY TEWARI, J. (Oral)

This petition has been filed against the concurrent judgments of the Courts below allowing an eviction petition filed by the respondent.

The brief facts are that the petition was filed on, among other grounds, non-payment of provisionally assessed rent for the period from 01.05.2016 to 31.01.2018. By order dated 09.07.2018 the Rent Controller assessed the provisional rent and the matter was adjourned to 20.07.2018 for payment. On that date the petitioner filed objections which were rejected and, since the rent was not paid eviction was ordered. In appeal the eviction having been maintained the present petition has been filed.

In the first place the learned counsel has argued that the petitioner is ready to make the payment. In my opinion, that liberty can not be granted to the petitioner in view of the judgment of the Supreme Court in the judgment passed in ***Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation 2002 (1) RCR (Rent) 515***. The second argument raised by the learned counsel is that Section 13(2) (i) of Haryana Urban (Control of Rent and Eviction), Act, 1973 (herein after referred to as 'the Act') prescribes a period of limitation and the respondent having filed the rent petition beyond the period of limitation the petition should have been dismissed on this score alone. Section 13 (2) (i) of the Act is reproduced herein below :-

“13 (2) A landlord who seeks to evict his tenant shall apply to the Controller, for a direction in that behalf. It the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied,--

(i) that the tenant has not paid or tendered the rent due from him in respect of the building or rented land within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement by the last day of the month next following that for which the rent is payable :

Provided that if the tenant, within a period of fifteen days of the first hearing of the application for ejectment after due service, pays or tenders the arrears of rent and interest, to be calculated by the Controller, at eight per centum per annum on such arrears together with such costs of the application, if any, as may be allowed by the Controller, the tenant shall be deemed to have duly paid or tendered the rent within the time aforesaid:

Provided further that the landlord shall not be entitled to claim arrears of rent for a period exceeding three years

immediately preceding the date of application under the provisions of this Act;”

It is the contention of the learned counsel that the words 'within fifteen days' and 'the last day of the month next' prescribe a period of limitation. As per him if there is a written rent note and a specific date is stipulated by which the tenant has to make the payment and if he does not make the payment of the rent the landlord is bound to file a petition within fifteen days, and it would be barred by limitation thereafter and if there is no rent note and the rent for a particular month is not paid then the landlord is bound to file the petition before the end of the next month. In my considered opinion, the argument is misconceived. These expressions actually prescribe the cause of action, that is to say if there is a written rent note which stipulates a date by which the tenant has to make the payment and he does not make the payment then he has a grace period of 15 days and if the payment of rent is not made within those 15 days also then the landlord would have a right to file the petition. Likewise, if there is no rent note and the rent for a particular month is not paid the landlord can file the petition only after expiry of the next month.

In this view of the matter, the petition is dismissed.

Since the main case has been decided, the pending Civil Miscellaneous Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

17.11.2018

pooja sharma-I

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No