

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 8543 of 2015

Date of Decision: 29.01.2018

Hatinder Prashar

...Petitioner

VERSUS

Raj Kumar and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashok Bhardwaj, Advocate
for the petitioner.

Mr. K.B. Raheja, Advocate
for the respondents.

SURINDER GUPTA, J.(Oral)

Heard.

Petitioner had filed petition under 13 of the Urban Rent Restrictions Act 1949 seeking ejectment of respondent no. 1-Raj Kumar from the demised premises.

Rent Controller while assessing provisional rent also directed the respondent-tenant to keep on paying the future rent @ ₹2000/- quarterly before 15th day of each quarter during pendency of the petition. Landlord-petitioner filed application for ejectment of respondent no. 1-Raj Kumar on the ground that he has committed default in payment of future rent as per order dated 16.01.2014. The application was dismissed by learned Rent Controller vide order dated 26.11.2015 with the observations as follows:-

“.....In this regard, he has relied upon *Rakesh Wadhawan vs. M/s Jagdamba Industrial Corporation, 2002 (2) Rent LR 36 (SC)*. I have gone through the ratio of law, laid down in the said case, according to which the respondent is liable to be evicted if he fails to pay the provisional rent on the first date

after its assessment by the Court, but here, the rent was assessed on 16.1.2014 and thereafter, the respondent paid rent upto September 2014, further the respondent tendered rent upto March 2015 vide order dt. 3.3.2015, but the applicant did not receive it. So, the facts and circumstances of the present case are different from those of the aforesaid case and the aforesaid authoritative pronouncement is not applicable to this case.....”

Learned counsel for the petitioner has drawn my attention towards observations of Hon'ble Apex Court in case of **Rakesh Wadhawan vs. M/s Jagdamba Industrial Corporation, 2002 (1) RCR (Rent) 514**, where some guidelines were given in para 30. Guidelines nos. 5 and 6, which are relevant for disposal of this petition are reproduced as follows:-

- “5. If the final adjudication by the Controller be at variance with his interim or provisional order passed under the proviso, one of the following two orders may be made depending on the facts situation of a given case. If the amount deposited by the tenant is found to be in excess, the Controller may direct a refund. If, on the other hand, the amount deposited by the tenant is found to be short or deficient, the Controller may pass a conditional order directing tenant to place the landlord in possession of the premises by giving a reasonable time to the tenant for paying or tendering the deficit amount, failing which alone he shall be liable to be evicted. Compliance shall save him from eviction.*
- 6. While exercising discretion for affording the tenant an opportunity of making good the deficit, one of the relevant factors to be taken into consideration by the Controller would be, whether the tenant has paid or tendered with substantial regularity the rent falling due month by month during the pendency of the proceedings.”*

Guideline enumerated at no. 6 above, shows that if at the time of final disposal of rent petition, rent tendered is found short and tenant is to be given some time for paying or tendering the deficit amount of rent, one of the relevant factor, which may be taken into consideration by Rent Controller would be, whether the tenant has paid or tendered with substantial regularity the rent falling due month by month during the pendency of the proceedings.

The above guidelines are clear enough and call for no further elaboration. In no manner, these guidelines mean that if the tenant after tendering the provisional rent as assessed by Rent Controller defaults in making payment of the rent during pendency of the petition, he will be ejected straightway. The view taken by learned Rent Controller is as per guidelines of Hon'ble Supreme Court in above referred case and call for no interference.

The instant revision petition has no merit and the same is dismissed.

January 29, 2018

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No