

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 3.4.2019

CR No. 30 of 2019(O&M)

Amarjit Kaur and another

---Petitioners

versus

Satnam Singh and others

---Respondents

CR No. 31 of 2019(O&M)

Amarjit Kaur and another

---Petitioners

versus

Jaswant Singh and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Amit Arora, Advocate
for the petitioners**

Rekha Mittal, J.

This order will dispose of Civil Revision Nos. 30 and 31 of 2019 as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from CR No. 30 of 2019.

The sole grievance of the petitioners is that the Rent Controller assessed provisional rent vide order dated 11.1.2018 and the case was adjourned to 19.2.2018 for payment of rent assessed provisionally. On 19.2.2018, respondent No. 1 failed to pay the rent assessed by the Rent Controller and on the statement made by counsel for respondent No. 1

before the Court below, the case was adjourned to 5.3.2018. It is argued that since the tenant failed to tender provisional rent assessed by the Rent Controller on the date fixed i.e. 19.2.2018, the Rent Controller had no jurisdiction to extend the time for tendering provisional rent, therefore, order dated 19.2.2018 passed by the Rent Controller and dated 29.10.2018 by the Appellate Authority cannot be allowed to sustain. It is further argued that since respondent No. 1 failed to pay rent assessed by the Rent Controller, necessary consequence should have been allowing the eviction on the ground of non-payment of arrears of rent. In support of his contention, he has relied upon judgment of Hon'ble the Supreme Court **Rakesh Wadhawan vs. M/s Jagdamba Industrial Corporation 2002(1) RCR (Rent) 514**. Further reference has been made to Division Bench judgment of this court **Rajan alias Raj Kumar vs. Rakesh Kumar 2010 (1) RCR (Rent) 386** and judgments by the Single Bench of this court **Sanjeet Singh vs. Mohali Motor Finance Company and another 2011(1) RCR (Rent) 406** and **Mrs. Birinder Khullar vs. Maninder Singh 2011(1) RCR (Rent) 307**.

Counsel for the petitioners would apprise the court that petitioners filed an application on 5.3.2018 for deciding the question of eviction of respondent No. 1 on account of his failure to pay rent assessed provisionally but the same is pending consideration till date. Another application was filed by the petitioners on 11.2.2019 requesting the Rent Controller to decide application dated 5.3.2018 but the same is pending consideration on 8.4.2019 as well as adducing evidence.

Keeping in view that the petitioners have already filed application dated 5.3.2018 for passing of order of eviction on account of

failure of respondent No. 1 to tender the rent assessed provisionally, without examining correctness or otherwise of the impugned orders, the petitions are disposed of with a direction to the Rent Controller to decide application dated 5.3.2018 on the date fixed i.e. 8.4.2019 or within a period of seven days thereafter but without being influenced by the order passed by the Appellate Authority. In case the application dated 5.3.2018 filed by the petitioners does not find favour with the Rent Controller, the petitioners would be at liberty to challenge orders dated 19.2.2018 passed by the Rent Controller, dated 29.10.2018 by the Appellate Authority and the order to be passed in the application dated 5.3.2018 by way of revision petition before this court.

Nothing stated hereinbefore shall be construed as an expression of opinion on merits of the application dated 5.3.2018.

(Rekha Mittal)
Judge

3.4.2019

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No